

REFORMING HONOLULU POLICE OVERSIGHT:  
EVALUATING THE ABILITY OF GENDER AND DISABILITY-BASED  
POLICE VIOLENCE TO REFORM OVERSIGHT MECHANISMS

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## **ABSTRACT**

National efforts to increase police accountability during President Obama's presidency have been fueled by vivid images of police violence that have largely targeted black men. The root of many of these highly publicized incidents appears to be post 9/11 shifts in American policing that deprioritized community centric policing models in favor of a more militarized approach. President Trump's administration and appointees within the federal government appear intent on returning to this strategy, which have begun to reverse oversight reform which took place after 2008. While race has been the primary intersectional stimuli for change in most U.S. states, gendered and ability violence by Honolulu police has driven local reform efforts following APEC in 2011.

Research has found that of the 2099 sworn police serving as county law enforcement in Honolulu, an average of 1 in 6 officers has been accused of misconduct since training adjustments were made towards first-shooter based training. Over forty cases of police violence and criminal misconduct by Honolulu Police officers (since 2010) have resulted in the sentencing of six officers to federal prison, and the resignation of the Honolulu Police Chief who was alleged to have engaged in public racketeering. Despite overwhelming evidence of historical problematic past practices by Honolulu police that appear to target mental illness or gender, it wasn't until the October 2014 video of Honolulu Police Sgt. Darren Cachola violently attacking his girlfriend that a community based call for police reform began.

Reform minded lawmakers, together with activists, investigative journalists, and a coalition of bachelor level criminal justice college students under my supervision, galvanized to uncover, repair, and redirect police policy. This feminist-based community action project seeks to determine if gendered or ability violence by Honolulu police will spur the same oversight reform

policy as racially motivated police violence has on the mainland. My dissertation discusses ongoing efforts to develop police reform strategies specifically in Honolulu, and more generally across the State of Hawaii.

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# CHAPTER 1

## INTRODUCTION

### 1.1 Dissertation Road Map

Several American communities have begun dialogs addressing issues involving local police services. Relationships between police and the communities they serve have become fractured to the point of Presidential intersession in 2014,<sup>1</sup> and are positioned to become more contentious based on President Trump and Jeff Session's commitment in abandoning community calls for policy reform.<sup>2</sup> Problems involving police oversight reached critical levels after shifts were made in domestic policing policy in 2001 to the degree President Obama requested systemic criminal justice reform across the United States.<sup>3</sup> In Honolulu, community perceptions of political ties into police corruption are supported by empirical evidence both historically and currently which have insulated police from reacting to community and presidential calls for policy reform.<sup>4</sup> As a former law enforcement officer and military police officer trained to operate both domestically and internationally, I have watched a shift in how some policymakers have chosen to allow police to operate within their communities and believe these shifts are the result of those legislators allowing police executives and unions to guide their decisions involving oversight policy and mechanisms. In my dissertation, I argue that gender and ability-based police violence has the ability to move policymakers into reforming police oversight mechanisms to the same degree race has been used in cities across the nation. I base my

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1 (Condon, 2015) (Office of the Press Secretary, 2014) (The New York Times, 2014)

2 (Eilperin & Cameron, 2017)

3 (Lee, 2014) (Office of the Press Secretary, 2014)

4 Outlined in more detail see pages 2&3. (Daysog, 2013 (PBC)) (Grube, 2014 (NTA)) (Grube, 2015 (ATS)) (Grube, 2015 (HELM)) (Grube, 2015 (NB)) (Kawano, 2016 (KKT)) (Kawano, 2016 (Chief)) (Perez, 2016 (SOC)) (Perez, 2016 (NNR)) (Perez, 2016 (CTL)) (Perez, 2016 (CPR)) (Perez, 2016 (BO)) (Perez, 2016 (LAO)) (Perez, 2016 (Meth)) (Stannard, 2005) (Straus, 1978)

hypothesis on the work done in Hawaii to address police malfeasance, and how gender and ability-based police violence were the catalysts.

Responding to the presidential mandate demanded by President Obama, the majority of criminal justice research nationwide has turned towards answering questions involving systemic dysfunction based on racial variables, or which involve race as a major variable within the study. In Honolulu, Hawaii the racial relations between police and the community is different and more complex than in the mainland allowing new questions and data to emerge and be addressed regarding police oversight.<sup>5</sup> The Honolulu police department (HoPD<sup>6</sup>) has maintained a hiring practice where the racial similarity between the police and the community contrasts with the mainland pattern of white police in minority communities.<sup>7</sup> This more complex and representational racial pattern allows a different result in police service delivery, where police-based violence against women and the disabled stand out. This racial pattern also provides important lessons to researchers engaged in police policy reform lessons in how simply altering the racial demographics of policing agency will not rectify the violence-based issues plaguing policing agencies across the county. Finally, this racial compositional difference that Honolulu enjoys allows scholars, journalists, and activists to see more clearly the relations of violence between largely male militarized police forces to those of women and the mentally ill.

In answering the question of whether police-based violence directed against women or the disabled is a powerful enough galvanization variable to effect systemic criminal justice reform

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5 (Maciag, 2015, p. 3)

6 While Honolulu Police has been referred to in the media as HPD currently, Huston Police Department, Hawaii Police Department, Honolulu Police Department, and Humboldt Police Department all utilize HPD as an acronym confusing research and data. Confusing this issue further is that internet based searches prioritize these police agencies and their data into a hierarchical structure when using, "HPD" as bases for data retrieval. For this reason, my research will use the following acronyms for clarity: Huston Police (HPD), Hawaii Police (HaPD), Honolulu Police (HoPD), Humboldt Police (HuPD).

7 (Maciag, 2015, p. 3 & 8)

policy or legislation to those reform efforts which have occurred due to police-racial violence elsewhere across the United States, I begin Chapter 1 with an overview of police oversight in the United States and why this issue is problematic before moving onto my methodology and theories used during this research. In Chapter 2, I demonstrate the historical intersectionality which existed with police oversight in the U.S. to the system developed by Honolulu policy-makers in 1931. Tracing several key historical moments, I demonstrate where there has been a greater colonialization tied to policing in Honolulu which has ultimately effected why APEC training and strategy shifts were necessary to ensure power stabilization with shifts towards militarization. Chapter 2 will also be where I tie together historical moments in Honolulu policing which demonstrate how Honolulu stood as a progressive model of civilian-led oversight at one point due to both the Kahahawai-Massie Affair and Richardson Report. In Chapter 3, I move onto the current problems plaguing HoPD as a result of training and strategy shifts made in preparation to the 2011 Asia-Pacific Economic Cooperative (APEC) summit. Intersections between police-based domestic and overall gender violence will also be made in Chapter 3 before moving into what factors have contributed to rises in both police-based gender and ability violence. In Chapter 4, I show the multiple avenues used by both reformers and myself in addressing the rising levels of police-based gender and ability violence. These strategies included judicial approaches, changing and creating state laws, and allowing voters to amend the County Charter. In Chapter 5, I examine the importance and difference between modern concepts of management and leadership in modern policing bureaucracies, before explaining how each is critical for maintaining oversight of the agency and dictating subcultural norms of the department. I then use examples of issues which arose during Chief Kealoha's administration (post APEC) as teachable moments to learn important lessons from before



examining difficulties I encountered when attempting to dispel misinformation spread by police officials surrounding proper police conduct. In Chapter 6, I conclude my dissertation by examining what progress was made in Hawaii to reform police oversight against what has been left unaccomplished. Although not able to accomplish all of the policy reforms I set out to complete, I feel the lessons learned during my dissertation are important in guiding those engaged in reforming how communities are policed, and why those who choose to focus on only one variable or reform method may be stifling a greater national effort to overhaul the nation's criminal justice system or retarding their own efforts.

## **1.2 How and Why I Became Involved in Police Policy Reform**

I have been told how there is a saying in academia that the road to completing a dissertation is a journey filled with twists, turns, and lessons which are both specific to the individual and unexpected or unforeseeable. My entrance into this research began during a study into gender civil rights policy sparked by military veterans, in other words a totally unrelated topic. During my graduate research in 2010 I was approached by the former Chair of the Sociology Department at the University of Hawai'i at Mānoa, the late Prof. William Wood. He, having lived in Hawaii far longer than I and having experienced the problematic policing techniques employed by HoPD, suggested I use my background and knowledge of policing procedure to examine how the HoPD was operating. Professor Wood felt that I, being a political science student focused on examining public policy, had a unique expertise in policing which allowed me both an insight and voice surrounding police operations which would permit 1) the ability to speak to policymakers from a different perspective than other academics or scholars, and 2) have the capability to fend off challenges by lawmakers, police managers, and police union leaders

whose intention is to dismiss scholars and research by claiming it lacks the industry insight which comes with being a police official.

Initially reluctant given my background which biased me towards the police point of view, I began to examine and investigate how police training and policy operated within the state of Hawaii, and more specifically in Honolulu. What I found immediately upon looking into the topic was how the history, philosophy, politics, and relationship surrounding policing in Honolulu, and across Hawaii, was both distinct and problematic in comparison to how agencies operated in other cities, counties, and states across America. What I also encountered immediately upon setting out to examine police conduct in Honolulu was a hostility and lack of cooperation by police, local government, and prosecutorial officials in Honolulu. This animosity directed at me was surprising given how I was biased towards police views, and given my past of being associated with law enforcement. I make this point as I feel these individuals' antagonism ultimately had an effect on both my research, and my ability to help them reform their systems through county fixes.

Being a strong advocate in the idea that any progress towards reform is hampered by a lack of understanding in historical lessons, I dedicate a large section of my research into looking into both the history of police oversight, and HoPD's historical development. I also believe that to understand Honolulu police department's unique oversight problems, I must first explain how police oversight across America became transformative and the impact it has had on community policing strategies. During the 1960's -1970's civil rights era, modern American policing tactics were highlighted as being problematic mainly due to images of police beating civil rights activists and black protesters who were attempting to bring attention to social and economic

policy discrimination.<sup>8</sup> Push-back to these contentious decades resulted in more community based oversight mechanisms being adopted by many police agencies across the United States. The rise of civilian oversight of police led to the awareness that new community policing programs were needed, which began during the 1990's under Attorney General Janet Reno<sup>9</sup> and for which I was trained. It is because of how and when I entered civilian policing that I admit to having a bias towards community based policing methods, and why I see police training post 9.11 as being problematic.

A major component of any reconnection strategy between police and communities they served was the reintegrating and reconnecting of those communities to individual patrol officers.<sup>10</sup> External oversight strategies developed during this era sought to demilitarize and re-humanize 'police officer's' images using accountability and transparency increases.<sup>11</sup> However, these same strategies have been recently characterized by policing managers and Attorney General Jeff Sessions as being too counter to traditional policing power-control models which rely on modern bureaucratic professionalization concepts.<sup>12</sup>

When scholars began to aid policymakers with new policing models during President Obama's administration, police manager and union objections were primary based on community policing models using highly controversial managerial concepts which encouraged inverse pyramid style organizational structures, rather than traditional downward flowing power-control models.<sup>13</sup>

This continues to lead most police managers and police unions to resist systemic reform based on

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8 The evolution and controversy of military style tactics being used by the American governmental into areas of domestic policing, is traced through their introduction in both the war on drugs and Special Weapons and Tactics (SWAT) policing units' development within Balko's book. (Balko, 2013)

9 First female U.S. Attorney General, and remembered for being supportive of family based policing efforts. (Cass, 1993)

10 (Braga & Weisburd, 2010, pp. 3-5) (Miller, Hess, & Othmann, 2011, pp. 15-16) (Zimring, 2012, p. ix)

11 (Walker, 2001, pp. 5-7)

12 (Balko, 2013, pp. 218-219) (Miller S. L., 1999, pp. 63-72)

13 (Miller, Hess, & Othmann, 2011, pp. 124-126)

community policing and not fully invest resources or support into community based strategies,<sup>14</sup> eventually leading to the militarization of police after September 11<sup>th</sup> (2001). Another result of September 11<sup>th</sup> was how police-community reparation models were defunded and deprioritized<sup>15</sup> which included all policy work addressing patriarchal based police subcultures exposed and being challenged by feminist scholars.<sup>16</sup>

New homeland security priorities and strategies in domestic policing, which integrated international security operations, were coordinated through newly formed national Fusion centers,<sup>17</sup> whose purpose was to address intelligence and strategy flaws in homeland security identified by the congressional 9.11 commission. These policy shifts translated into domestic police agents being shifted away from being asked to see their local communities as places to be nurtured and assimilated, into adopting the “hunter” mentality used by soldiers to combat terrorism.<sup>18</sup> This consolidation of intelligence also produced a by-product of distancing transparency from domestic policing activities in that information which was previously used to monitor police activities is now classified as being secretive strategies necessary to fight a ‘war on terror’. Evidence also points to these shifts resulting in a reinvigoration and reinforcing of hegemonic patriarchal police subcultures within American policing bureaucracies, especially within HoPD’s subculture, management, and leadership.<sup>19</sup> Evidence also points to these

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14 (Braga & Weisburd, 2010, p. 9) (Miller, Hess, & Othmann, 2011, p. 120)

15 (Balko, 2013, p. 242) (Priest & Arkin, 2011, pp. 3-7)

16 (Miller S. L., 1999, pp. 67-71; 224-227)

17 (Bureau of Justice Assistance, 2013) (Balko, 2013, p. 242) (Priest & Arkin, 2011, pp. 3-7) Fusion centers will be discussed in detail along with their connection to HoPD and APEC in chapter 2.

18 (Wills & Steuter, 2009)

19 (Kakesako, 2014 (FL)) (Kawano, 2016 (NCT)) (Kawano, 2015 (Tsun)) (Kawano, 2015) (Kelleher, HPD: No criminal case for sergeant in abuse probe, 2014) (Kraska & Kappeler, 1995) (National Center for Women and Policing, 2013) (Perez, 2016 (CPR)) (Perez, 2016 (CTL)) (Newsdesk, 2013)

subcultural shifts contributing to a nationwide rise in police-based racial violence and rises in police-based violence targeting women and the disabled by HoPD.

Having been trained, equipped, supported, and then given the opportunity to perform as a community based police officer by both the Metro-Dade Police Department from 1992 -1998 and the Contra Costa County Sheriff's Office from 1998 -2002, my observations of how police and their communities have interacted after the 9/11 policy shifts left me questioning the wisdom of the current methodology, training, and strategies being employed by police managers nationwide. These observations have been reinforced by comparisons I am also able to make based on training I received in military counter terrorism, police urban pacification, and insurgency control training from U.S., West-German, and other NATO<sup>20</sup> army's strategists between 1986-1992 (while serving as a military police officer in the U.S. Army, overseas.) I have used this training to gage strategies being used by HoPD and other modern policing agencies post 9.11, which helped me reach my conclusions.

While historical racial divides between police and citizens have reemerged to dominate the focus of discourse surrounding formalized policing strategies and problems, Hawaii has provided me an environment from which to ask different questions surrounding ongoing national policing problems that involve gender and mental illness. This is largely due to the unique demographics of both the county of Honolulu and their police services. According to a 2015 study of law enforcement agencies community representation on police force, Honolulu police department scored an 86.7% (+6.1%) in total minority representation of officers on the force, which is demonstrative of a very representational demographic between police and the Honolulu

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20 North Atlantic Treaty Organization

community.<sup>21</sup> Because my international law enforcement experience has exposed me to a variety of different models used by governments surrounding the conceptualization of how to deliver formalized social control services, I believe Hawaii was (and remains) a unique model of how policing is both executed, and perceived. The unique socio-political environment that surrounds the HoPD, while exposing unique and urgent crises, also provided an opportunity from which to go beyond the discourse which other communities appear stuck within, and ask whether gender-based police violence and violence against the mentally ill could have similar policy reform capabilities to those of race-based police violence when the racial catalyst was absent.

As previously stated, like many other American communities Honolulu's police services have become a socio-political topic due to numerous publicly perceived failures stemming from police services mismanagement and maladministration. Recent issues involving formalized police services on Oahu, Hawaii (also known as Honolulu City and County),<sup>22</sup> came into focus after several high profile incidents involving both police (domestic) violence, and violence involving the mentally ill.<sup>23</sup> These incidents surfaced during the national police reform effort rising from discriminatory violence by (mostly) white male police officers against black men and women.<sup>24</sup> While evidence continues to surface proving police violence against women and the mentally ill is a national problem,<sup>25</sup> public exposure and acknowledgement of the issue has been slow to take

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21 (Maciag, 2015, p. 8)

22 Many who are unfamiliar with the governmental plan developed for the state are quickly confused because of the unique system of government adopted to meet the geographical, cultural, and sociological uniqueness of the state. The island chain (and thus the State of Hawaii) is comprised of eight islands divided into four major (and one minor) counties. While some islands populations or size restricts their identity to being classified as a single county (Honolulu, Hawaii, and Kalawao counties), the remaining two counties (Maui and Kauai) encompass multiple distinct islands. Thus, Honolulu is the name of the city, the county, and encompasses the entire island of Oahu. This means that throughout the state of Hawaii, county police have island wide jurisdiction. The five county police agencies operate to serve all areas of their counties as there are no incorporated cities that are distinct from the county. Like San Francisco, the name of the island (or city) may also be the name of the county. Hence Hawaii County encompasses the entire island of Hawaii, while Honolulu County encompasses the entire island of Oahu.

23 (Cachola Commission - Videotestimony, 2014)

24 (Office of the Press Secretary, 2014)

25 (Abby-Lambertz, 2015) (Grube, 2015 (ATS)) (Watson, Corrigan, & Ottati, 2004)

root as it is constantly overshadowed by the more prevalent discourse involving race.

Traditionally, when police violence has been brought into national discourse by the media, the topics revolve around violence directed at a specific man (or men) or police official. Examples of this media bias are evident in how *#Sayhername*<sup>26</sup> (created by the AAPF in 2015 specifically to address gender-specific police violence) or *#freeBresha*<sup>27</sup> has gotten little media attention, while movements that are more encompassing and highlight men (such as *#BlackLivesMatter*<sup>28</sup>) have received more attention for their work. Meanwhile, in Honolulu, a mostly non-white (integrated) police force has been repeatedly found engaging in gender-based violence,<sup>29</sup> and violence involving those with mental illnesses.<sup>30</sup> This beckons the question, if police were to become more racially representative of the communities they serve, would this fix solve all of the problems between police and their communities? Honolulu's police demographics appear to challenge any reform hypothesis whose focus lay solely in redistribution or reform hiring surrounding officers race or gender.

With social awareness beginning to extend beyond dual sexualities or genders<sup>31</sup> and shifts by Attorney General Jeff Sessions towards supporting militarization of police<sup>32</sup> (including hyper-masculinizing police officers), there is a renewed need to understand if gender or disability-based police violence rises to the point of needing its own policy reform attention. Should the race-based element of police dysfunction ever be resolved, it is important that gender and ability-based police violence is not sacrificed or overlooked during the process. Police violence against

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26 (African American Policy Forum, Inc., 2015)

27 (Yeung, 2017)

28 Currently regarded as the leading grassroots advocates, whose focus is on reform policy addressing discriminatory police violence directed against African-Americans, and whose primary founders were three women in 2013 who demanded inclusion into a mass-media narrative that was being shaped as, "white male policing violence against black men." (Garcia, 2015)

29 (Perez, 2016 (CTL))

30 (Grube, 2015 (SHL)) (Grube, 2015 (ATS)) (Sagapolutele, 2016 (FO))

31 (Steinmetz, 2015)

32 (Balko, 2017)

women (or others who are gendered as feminine), and those seen as ‘other’ due to mental or physical disability, is not a new or a minor problem within American society or the criminal justice system. Nevertheless, women and the mentally ill have historically been repeatedly deprioritized as a galvanization point of police policy reform, replaced instead with race or class. A militarization of police after 9.11 has heightened awareness of increasingly violent contacts between individuals suffering from mental illness or Post Traumatic Stress Disorder (PTSD) and poorly trained police. These escalating deadly encounters between police and the mentally ill intersect with racial and gender problematic preconceptions held by police (and which are reinforced within police subcultures), which ultimately promote and reward patriarchal behavior and philosophies.

Many scholars and activists continue to work on police violence against women and family members, and the mentally ill, but do so within a political environment which continuously urges resources and attention towards the historical (and as of yet) unresolved crisis of race and policing or combating terrorists. Racial problems in policing have historical roots on the island of Oahu, however do not rise to levels faced by other agencies nationwide. Contrarily the current crises facing Hawaiian policing agencies, most specifically HoPD, have been brought to the community’s attention largely based on police-gender violence (e.g. Family Violence, Sexual Exploitation, Sexual violence, and violence against women) and homicides involving mentally ill military veterans.<sup>33</sup>

Friction between police and the community in Hawaii, even more so on the island of Oahu (Honolulu,) is neither new nor unnoticeable. When asked about police in Hawaii, many island

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33 (Blair, 2013 (GC)) (Cachola Commission - Videotestimony, 2014) (Cruz, 2016) (Daysog, 2014) (Grube, 2015 (PFT)) (Grube, 2014 (GC)) (KHON2, 2014) (Kerr, 2015 (FFH)) (Newsdesk, 2013) (Star-Advertiser Staff, 2014)



residents (regardless of Individual County) include some variation of having perceptions of systemic corruption being incorporated throughout the bureaucracy. These views have developed due to a sordid history of publicly perceived overt corruption within formalized policing services (most of which is unacknowledged or dismissed by local police.) An example of this perceived corruption in police services is the Massie Affair of 1931,<sup>34</sup> which resulted in the overhaul of Honolulu police management, bureaucracy, oversight, and political connections after riots in downtown Honolulu. These historical problems have reawakened due to a number of recent police misconduct incidents, which have resulted in ongoing prosecutions of Honolulu police officers, supervisors, managers, and chiefs for civil rights abuses.<sup>35</sup>

Exacerbating these high-profile incidents of police corruption is a public perception that county leaders and the police commission (the only systemic external oversight mechanism) are invested politically in the current police chief, to the point of collusion.<sup>36</sup> Some of most serious cases involving police criminal conduct in Honolulu between the periods of January 2010 – December 2016 which have resulted in few convictions or punishment involve patterns of violence targeting (most prevalently) women and the mentally ill, that include brutality, corruption, extortion, sexual assault, and accusations of wrongful police homicide, which have occurred after a purposeful shift towards militarization in 2008.<sup>37</sup> These rank-and-file issues are occurring simultaneously with federal investigations taking place focused upon both the Honolulu Police

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34 (Straus, 1978, pp. 25-28) (Stannard, 2005)

35 (Daranciang, 2015) (Daysog, 2013 (AYK)) (Perez, 2016 (BO)) (Perez, 2016 (SOC)) (Grube, 2015 (PFT)) (Grube, 2015 (B)) (Grube, 2015 (ATS)) (Grube, 2015 (HELM)) (Grube, 2014 (PHM)) (Kawano, 2015 (Tsun)) (Kawano, 2014 (BCND)) (Kearns, 2014) 36 (Grube, 2015 (CSO)) (Grube, 2016 (LCT)) (Grube, 2015 (NCR)) (Grube, 2016 (ECS)) (Grube, 2014 (BC)) (Grube, 2015 (IKN)) (Kerr, 2015 (EP)) (Kerr, 2015 (PCU))

37 (Grube, 2015 (PFT)) (Grube, 2015 (ATS)) (Grube, 2015 (HELM)) (Grube, 2015 (SHL)) (Kawano, 2015 (Tsun)) (KITV4, 2015) (Star-Advertiser Staff, 2014) (Sagapolutele, 2015 (SDC)) (Sagapolutele, 2016 (FO)) The militarization of Honolulu police will be discussed in detail in Chapter 4. This includes discussions surrounding the APEC militarization policing model that was transmitted nationally through Fusion centers, and how this APEC model resulted in clashes with African-American protest groups in Ferguson, Mo.

Chief and one of the top Honolulu County Prosecutors (and coincidentally the Police Chief's wife, Katharine Kealoha.)<sup>38</sup> What has resulted as pushback to these systemic (and as of yet unresolved) examples of bureaucratic failure in police services are grassroots efforts to reform police services and leadership. These efforts involved police reform legislation that I (and others aiding me) helped pass into law, which have been shaped and supported by feminist action research, intersectional theory, and participant-observational data collection.

While cities which have experienced race-based police violence have taken steps to reform oversight policy, like Chicago, IL, Philadelphia, PA, and New York, NY, the question of whether Honolulu residents' concerns have been addressed or politicized is central in determining whether women and the disabled can engage policymakers at levels race-based activists have been. In Chicago local policymakers have resorted to creating a new agency meant to oversee all police complaint investigations called the Civilian Office of Police Accountability (COPA) and which replaced a dysfunctional Independent Police Review Authority (IPRA),<sup>39</sup> while New York has addressed police-racial violence by creating citizen based voting groups like Communities United for Police Reform (CPR)<sup>40</sup> and the Police Reform Organizing Project (PROP).<sup>41</sup> CPR and PROP were successful in pressuring lawmakers to introduce the 'right to know' act, which addressed police 'stop-and-frisk' tactics.<sup>42</sup> Meanwhile residents and activists in Honolulu have been forced to rely mostly on state lawmakers to take up the issue of reforming Honolulu police, as local councilmembers and city executives are slow (if at all engaged) in addressing police misconduct or the dysfunctional Honolulu Police

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38 (Kawano, 2016 (KKT)) (Kawano, 2015 (FBI)) (Kawano, 2016 (Chief)) (Kawano, 2014 (CJ))

39 (Cox, 2016)

40 (Webmaster Communities United for Police Reform, 2017)

41 (Webmaster Police Reform Organizing Project, 2017)

42 (Goodman, 2016)

Commission (HPC) – a civilian-based police oversight mechanism. Even with state lawmakers making political moves to appear to be addressing problems, the question remains; is police-based violence against women and the mentally ill able to affect police reform policy with the same effectiveness as race has in Chicago, Philadelphia, or New York.

### **1.3 Methodology and Theory**

In order to outline how and why I chose the specific methods of research and exploration into this topic I did, I must begin with an emphasis of how important the students I taught were within the choices I made. Although I had been teaching at the University of Hawaii during my graduate studies in 2009, in June 2011 I began teaching bachelors level criminal justice classes at a local private institution in Honolulu called Remington College. One problem I began to have with my students, who were primarily those whose background disqualified them from participating in traditional education with the University of Hawaii, was how best to translate to these students how their textbooks exclaimed one ideology about the criminal justice system while they witnessed and experienced a vastly different perspective being carried out by Honolulu Police and its Chief, Louis Kealoha. What this conundrum ultimately led to was a transformation of both my methods of researching and teaching, in addition to how I envision the modern classroom and best method of engagement of the students I was entrusted to teach. It also led to a recreation of where I saw learning taking place, which has been called both transformative and innovative by my peers and superiors in academia, but which felt like a return to the strategies student/ teacher activists in the 1960s used to initiate police reform.

Some of the socio-political and environmental variables which affected my research and findings include: militarization of the local policing model during 2008-2011, bureaucratic leadership and

management problems occurring within HoPD between 2010-2016, a patriarchal hegemonic subculture within police services operating across the State of Hawaii, a unique oversight and accountability model for police which has both historically progressive and currently dysfunctional, and a unique state geography and political history which has helped interconnect police corruptly to policymakers.

My research began during HoPD's security preparations for the Asia-Pacific Economic Cooperative (APEC) summit (2010) and was terminated shortly after HoPD Chief Kealoha was forced to retire in February 2017. Included in my dissertation is data from an approved Independent Review Board (IRB) socio-political study (UHIRB Project #23221), which focused on data collection from local and state legislators and officials from 2014-2016. My dissertation project (conducted jointly within the Political Science and Women's Studies departments) attempts to simultaneously assess the applicability of intersectional thinking directly into legislative policy aimed at systemic bureaucratic criminal justice, and more specifically policing, reforms. My methodology also included an additional component of advocacy for actual legal and systemic reform of police services across Hawaii in line with the 2014 mandate made by President Obama. My methodological philosophy utilizes similar frames of introduction of intersectionality into criminal justice thought as have been used to reframe civil jurisprudence in feminist scholarship. These theoretical frames were employed when advising local policy-makers or advocating for legislative reform policy both in the media and when testifying on proposed police policy reform. I chose to utilize a participatory, collective activist research process based on feminist research models of community active research combined with the traditional participatory observation method of data collection. Included as part of this method was the participation of all bachelor level criminal justice students studying at Remington

College in Honolulu during 2013-2016, which while uncommon in classic social science pedagogies was an important aspect of feminist action research practices, and a major reason why I was attracted to feminist research methodology. My research and activism has aided changes addressing police services across Hawaii, and has been framed by media as being, “some of the most progressive reform legislation in years.”<sup>43</sup> These changes included; 1) four new police oversight laws enacted in 2016, 2) one 2016 amendment to the Honolulu County Charter, and 3) multiple changes to policy and leadership within the Honolulu Police Department and Honolulu Police Commission.

As I assessed how other state lawmakers and advocacy groups were strategizing and attempting to reform policing by developing new legislation or adjusting existing systemic oversight mechanisms, I began to see where attempting any of these methods was problematic. First, there is, was, and remains no non-profit or other advocacy group whose sole purpose is either to advocate for police oversight, or to act as a unified voting bloc to politically encourage lawmakers who may wish to engage in police oversight. Secondly, there is an extremely strong police union and police advocacy which began in Hawaii during the 1970s, and which routinely engages in misinforming, misleading, and misconstruing police policy to the public, legislators, and officers. Third, there is a deep colonialism which founded the current political system in Hawaii, and which continues as part of national defense and to oppress the indigenous population from either cession or regaining sovereign status as an independent country. Forth, there was little to no connection to ongoing national issues driving police reform due to the extremely limited number of African-American residents in Hawaii, and the lack of any significant police-based violence directed at them. Fifth, there is a purposeful and ongoing

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43 (Lincoln, 2016)

misinformation campaign surrounding police oversight policy which both the media and police engage in whose purpose is to keep residents ill-informed on what constitutes good, proper, or legal police services. All of these meant that a strong activist element would be necessary both within my methodology and theory.

While most criminal justice, criminological, and political research utilize one of the four levels of participation-observation methodology from which to examine issues surrounding crime and policing policy,<sup>44</sup> I felt that choosing any method which forced me to be in a predominantly observational role would not be sufficient to address the many environmental barriers which surround policing in Hawaii. This was primarily due to limitations which dictate how and why researchers must remain anonymous<sup>45</sup> when engaging in data collection or research, or situate themselves outside of a group being studied during policy development.<sup>46</sup> Additionally, most criminal justice and criminological policy research appeared to come from scholars who had never engaged in actual police work while being employed as a police officer. This normally situates researchers to be in the position to simply observe or be third party rather than to advocate against police managers, or for a particular policy based on experience or prior police academy training. As previously mentioned, I felt the environment required a strong advocacy component be included, which is inclusive within feminist based communal action research.<sup>47</sup> Rather than solely using a strictly observational, or participation-observation research methods, I chose to utilize a mixed method (qualitative and quantitative) community action research,<sup>48</sup> which has been successfully used to research and address issues involving policy oppression

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44 (Hagan, 2005, p. 209)

45 (Adams & Schvaneveldt, 1991, p. 235) (Babbie, 1975, p. 234) (Bouchard Jr., 1976, p. 368) (Dane, 1990, pp. 156-160)

46 (Hagan, 2005, pp. 214-215)

47 (Lykes & Crosby, 2014, pp. 146-147) (Reinharz, 1992, pp. 177-178)

48 (Hesse-Biber, 2014, pp. 364-367)

directed against race, class, gender, sexuality, and ability outside of law enforcement or criminal justice.<sup>49</sup> While uncommon for a white-male to utilize these Feminist methods, I felt that an uncommon approach to a common problem may be the radical thinking necessary to overcome pre-constructed environmental barriers. Using multiple research methods would also allow me to collect ethnographic testimony which could then be deconstructed and transposed into data sets using qualitative text analysis. This method ultimately allowed me to determine where legislators stood on criminal justice issues involving gender, race, class and ability.<sup>50</sup>

All of the methods I chose also required me to begin thinking outside of the realm I had acquired as a military police officer, and police officer when thinking about criminal justice policy directed at gender, class, race, and ability. Although a disabled military veteran, I was still a Caucasian male who was attempting to address police discriminatory policy directed at women and the disabled. Because intersectional theory is not historically applied to policing policy, I found it (intersectionality) to be a useful tool to force me away from my preconceived biases while simultaneously providing me a frame from which to begin formulating new solutions situated outside of the normally discussed realms of policy change. Originally designed as a decolonizing tool by black feminists in the early 1960's, it has been successfully used by feminist scholars to theoretically construct new frames of understanding surrounding public policy and issues which typically are used to oppress or target sex, gender, class, race, and ability. Intersectional theory (intersectionality) has expanded both socio-politically and theoretically, bringing with it a debate in its purpose and applicable scope including important work done to demonstrate colonialization of women within American jurisprudence.<sup>51</sup> Because

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49 (Hesse-Biber, 2014, p. 382)

50 (Kuckartz, 2014, pp. 74-79)

51 (Crenshaw, 2011, pp. 27-29)

men have already done important theoretical work using intersectionality,<sup>52</sup> I felt confident I would also be able to utilize this theory as I conceptualized new strategies and theoretical frames from which to suggest policy aimed at decolonizing and addressing oppressive criminal justice tactics used against women and the ability-impaired.

This being understood, an explanation of why and how intersectional thinking and theory was linchpin is important. Intersectionality has proven effective at allowing scholars, researchers, politicians, activists, and other interested stakeholders to develop new philosophic and activist pathways to connect gender to race, disability, class, and other vectors of power, in an effort to develop new models for problem solving across both social and political arenas. Although this is primarily used as an avenue for the sociological reframing of gender power conversations, intersectional theory has provided usable matrixes applied towards solutions to political and legal problems.<sup>53</sup>

Intersectionality began (both in origin and in purpose) as a response by African-American women to their initial exclusion from the women's and minority rights revolution.<sup>54</sup> Advances in intersectional theory have allowed scholars to understand how certain aspects of an individual's characteristics connect to a variety of external issues. Because intersectional thinking was critical as I developed new frames from which to construct criminal justice policy reform, an overview on the ethical usage of intersectional conceptualization as a political tool is essential. There are three important points surrounding the utilization and purpose of anyone attempting to work with intersectionality which include: 1) historical acknowledgment, 2) decolonization versus a more

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52 (Hearn, 2011)

53 (May, 2015, pp. 63-96)

54 (Lutz, Teresa Herrera Vivar, & Supik, 2011, p. 2) (May, 2015, pp. 9-12)



limited reformist usage, and 3) the ongoing relevance of intersectional theory as a tool for social change.<sup>55</sup>

Vivian May, Associate Professor and Chair of the Women's Studies and Gender Studies Department at Syracuse University, cautions anyone attempting to utilize intersectional theory that any use of intersectionality without understanding historical context risks working against the overall purposes of understanding the decolonizing intent behind intersectional thinking. This was important, as Hawaii has a very unique colonization element targeting the indigenous Hawaiian populous which is overarching all policy. For this reason, I spend a great deal of time researching both the colonizing of Hawaii, and what role police and criminal justice policy played during these events. I also spent a great deal of research investigating how women and 'others' have been historically targeted by both colonizers and those in power throughout Honolulu's history in order to better understand how and why Honolulu police officials have been effective at insulating themselves from modern attempts to stem corrupt police subculture and practices which involved police-based gender and ability violence and exploitation.

Before attempting to explain further why intersectional theory was the most attractive platform from which to begin an analysis of anti-discriminatory legal issues (such as Honolulu police reform), a brief understanding of the contributions to intersectional thinking by American sociological professor Patricia Hill is important. Patricia Hill's model of self-conceptualization (referred to as 'interlocking systems of oppression') begins to explain how HoPD's police-based gender and ability issues are interrelated to national policing problems involving racial police-based violence. According to Hill, 'race', class, gender (and more recently physical, social,

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55 (May, 2015, pp. 2-12)

emotional, and mental ability) are aspects of one's self that form 'interlocking systems of oppression'.<sup>56</sup> Hill goes on to state that an individual's self-image is repressively influenced (simultaneously) by both the social culture that one is immersed in and the physical environment they are exposed to.<sup>57</sup> Hill emphasizes that each individual person's interlocking system varies based on cultural norms, and thus not all individual interlocking systems oppress to the same degree, nor are they stagnant. Columbia and University of California at Los Angeles law professor and activist Kimberle W. Crenshaw illustrates Hill's concept in her legal analysis; *DeGraffenried v. General Motors*<sup>58</sup> when she argues that the experience of being a black woman cannot be understood in terms of being black or of being a woman independently.<sup>59</sup> Ironically, characteristics that comprise these interlocking systems (class, race, sex, ethnicity, ability, and others) are the problematic focal points that police service managers and administrators struggle with when attempting to create or implement formalized social control models, both nationally and at HoPD. Because 'interlocking systems of oppression' were prevalent in both intersectional theory and police reform discourse, the overlap allowed intersectionality to work in my analysis as a frame that focused on three variables (police violence, policy reform, and gender/ability.) I was able to use this triangular formula of analysis (three variable points of analysis) to determine each variables relationship to (and on) the other.

Because this usage of intersectional theory in some ways reinforces and stabilizes existing privilege and power, by seeking to reform rather than fully transform policing, I must acknowledge that some scholars may contend that this usage abandons the complete decolonizing intent of the intersectionality. While I acknowledge this truth, I simultaneously

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56 (Hill, 1990, pp. 553-555)

57 (Ibid, p. 554)

58 413 F Sup 142 (E D Mo 1976). 6. 708 F2d 475 (9th Cir 1983)

59 (Crenshaw, 2011, pp. 25-26)

argue that to ignore or obstruct intersectional theories political potential as a tool of reform, is itself a passive form of reinforcement of the ongoing violence victimizing and targeting those that are subjected daily to single-axis modes of power. In other words, it is the duty of individuals who touch audiences and enjoy social privilege to continuously encourage political efforts to halt or stem the advancement of single-axis hegemonic patriarchal thought. It is also important not to forget that diplomatic concessions have always been part of a ‘step-by-step’ reform philosophy that advances society towards more radical transformations. Hence, although progressive changes in Honolulu have been focused on using intersectional thinking to remedy ongoing police violence against gender and ability, the advances in systemic oversight policy creation should not be used to undermine political arguments against larger overall decolonization efforts.

## CHAPTER 2

### HISTORICAL OVERVIEW

#### 2.1 Historical Roadmap to Police Oversight Reform

As many intersectional theorists emphasize, and where I pointed to Vivian May as highlighting, intersectionality is designed to uncover deeper colonialization ties to topics than appear on their face. In order to best expose these ties in criminal justice, historical perspective is important. Many current arguments about the interconnectivity, or political connections, between lawmakers and police have been used to skew, misinform, and mislead policymakers, the public, and police officers as to what is meant by political interconnectivity. During testimony addressing whether civilian oversight of police should include a mechanism allowing the city's Mayor to remove the HoPD Chief if the civilian board designed to carry out that function (the HPC) appeared corrupted, the Hawaii Police Union (SHOPO) lawyers argued how politically linking the police to county executives was a dangerous and unwise move due to the political era of policing and previous problems involving this type of bridge between agencies. However logical this argument appears on its face, is actually a distortion of what police reformers who advocated for this separation meant when they proposed it during the 1930s. To clarify and begin to expose how union and police executives in Honolulu (and elsewhere around the nation) continue to distort what police reformers meant, and thus re-empower modern reformers to argue new methods of oversight, it is important to expose the true meaning of what was warned about and what was suggested to occur. To fully expose this skewing of history, and camouflaging of the colonization responsibility put on local police by the military and colonial governments which remains in place today, I must take readers on a historic look at police reform

development both across the United States versus how it occurred in Honolulu. This will bridge my research into a discussion how Hawaii's policing systems received an overhaul as a result of a historic case known as the Kahahawai-Massie Affair, and will show a direct intersectionality between legislative suggestions being made by Police Chief and reformer August Vollmer, and those made by Department of Justice Attorney Seth Richardson in 1929. Once this connection has been made, I will link the fact that Honolulu once was one of the most progressive cities in the United States having civilian-led police oversight fifty years ahead of its popularity across the U.S. which did not occur until the 1970s. Following this progressive oversight mechanism (named the Honolulu Police Commission - HPC) I will use the political interconnectivity argument to link how police unions purposely depowered this mechanism and positioned the HPC into the defrocked agency it is today. Finally, I will show how once this (once) progressive agency was politically repositioned organized crime was allowed to infest HoPD's ranks and why a subculture of corruption within the department was able to develop. This subculture of corruption by HoPD officers has been pointed to by investigative journalists, local criminologists, and legislators as contributing to increased violence by HoPD officers against women, the mentally ill, and eventually anyone they perceived as challenging their autonomous power and control once training was shifted for APEC by Chief Kealoha.

## **2.2 Police Reform Development in the U.S. and August Vollmer**

During the political era of American policing development, which ranged from 1840 – 1920, entire police departments including the police chief could be replaced with political appointees following local election. In other words, as mayors and governors were voted into office they would have the authority to appoint sympathetic strong men to the position of police in order to

cement a hold on power in a particular area. These direct political connections again gave local policing agents autonomy from public accountability, which subsequently allowed the biases and prejudices installed from European colonialism to continue and become institutionalized. Prior to legislative hearings into police corruption held after the failure of prohibition, known commonly as the Wickersham Commission, any police accountability mechanisms were internal and informal (if present at all).<sup>60</sup> One scholar who has studied early models of police accountability in the United States is criminologist Samuel Walker. Walker has published numerous books assessing civilian oversight of police strategies attempted nationally, and has noted how these methods have contributed to modern issues involving police malfeasance.<sup>61</sup>

According to Samuel Walker in his book, *Police Accountability: The Role of Citizen Oversight*, the concept of ensuring police are accountable dates back to the shift towards professionalism which occurred in the 1920s as a result of the political era of policing.<sup>62</sup> Walker writes,

“The history of the movement for citizen oversight of police falls into three broad periods. Between the 1920s and the mid-1950s, oversight first emerged as a radical idea, and after World War II it was eventually embodied in a few experimental agencies. In the second period, from the late 1950s through the 1960s, civilian review-as it was called became one of the major demands of civil rights leaders. Extremely bitter conflicts over this issue erupted in Philadelphia and New York City. The demise of review boards in those two cities by the end of the decade appeared to signal the death of citizen oversight. The third period began with the quiet revival of citizen oversight in 1969 with the creation of the Kansas City Office of Citizen Complaints and continues to the present day.”<sup>63</sup>

What Walker means is the first ‘radical’ reform ideas stemmed from the failure of prohibition, and were actually a legislative pushback against autonomous police activity working against federal law.<sup>64</sup> The Wickersham hearings also brought to public attention the brutality and abuses police used on minorities or ‘criminals’ due to the lack of oversight, specifically during police

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60 (Walker, 2006, p. 2) Other changes to the bureaucratic model of policing that occurred due to the Wickersham Commission are examined in Chapter 4.

61 (Walker, 2001) (Walker, 2006) (Walker, 2006)

62 Ibid (p.19)

63 Ibid (p.19)

64 (Dempsey & Forst, 2012, p. 19)

interrogations thereby proving race-based violence has been an intersectional point historically with reform policy. One highly controversial interrogation technique brought to light during the hearings was police use of ‘the third degree.’<sup>65</sup> The infliction of mental and physical pain in order to illicit a confession (the third degree) was only one of many brutal police tactics brought to light during the Wickersham Commission demonstrating how police used governmental power. These abuses were made public by an up and coming star in American police reform, and someone who would eventually make physical intersectional bridges between HoPD and Professionalism, City of Berkeley (California) Police Chief August Vollmer.<sup>66</sup> While noting it was through the import and development of formalized policing that European colonial bias and prejudices were transmitted, it was actually the interconnectivity between police and local political bosses which occurred after the formalization of police structures which solidified these corrupted values and allowed autonomous conduct by police. It was also the rise of August Vollmer which begins to link the first concept of police accountability and biases with our second exploration of how HoPD was politically hijacked from a progressive agency in the 1930s to contributing to being the fifth deadliest state for police homicides by 2016.<sup>67</sup>

Violence against women, minorities, and other categories described as being interlocking systems of oppression is not a new phenomenon, nor was oversight of police quickly adopted once policymakers understood how local corruption could undermine federal policy. As we trace the roots of institutional police bias against race, gender, class and ability, the interconnection between American police and local political bosses from 1840 – 1930 has been

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65 (Bennett & Hess, 2007, p. 6)

66 (Bennett & Hess, 2007, p. 6) (Dempsey & Forst, 2012, p. 19)

67 (Grube, 2015 (KMP))

well documented<sup>68</sup> and linked to failed federal policy involving prohibition (the ban on alcohol within America).<sup>69</sup> As a result of prohibition's failure, congressional investigations were launched to determine what role local policing agencies had in contributing to failed policy. Although women and minorities had been protesting police abuses of power and corruption beginning in the 1800s, it wasn't until the Wickersham Commission hearings that legislators recognized and acknowledged corrupt police activity across the United States, finding them to be systemically ingrained and in need of reform. Even with this acknowledgement, legislators were more upset that local police interfered with governmental policy, than they were with directed violence against race, class, sexuality, gender, or ability. Several pioneers aimed at reforming policing practice emerged as a result of the Wickersham hearings, believing police interconnectivity to local politicians was one of the largest contributing factors as to why police were involved in corrupt behavior and rising crime rates. These same pioneers also had the idea that professionalizing policing by developing officers into professional bureaucratic 'sleuths' whose duties were not politically directed or motivated would be the most effective way to fight a growing 'war on crime.' One of the most notable reformists to emerge and advocate for police professionalism was Berkeley's Police Chief (Vollmer). As previously mentioned, the rise of Vollmer is also the intersectional point which helped propel HoPD into the age of professionalization by indirectly aiding the department in overhauling policy, personnel, and methodology in 1932.

Chief August 'Gus' Vollmer's background and philosophies made him stand out from other Police Chiefs who were mere political appointments during that era. Vollmer's background was

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68 (Bennett & Hess, 2007, p. 5) (Dempsey & Forst, 2012, pp. 12-13) (Ferguson, 2011, pp. 25-29) (Miller, Hess, & Othmann, 2011, p. 9)

69 (Bennett & Hess, 2007, p. 6)



that of a U.S. Marine during the Spanish-American war and of a postman in Berkeley in 1904.<sup>70</sup>

Vollmer was voted into office as town Marshal by the citizens of Berkeley, CA. after stopping a run-away rail car from damaging much of the town while he was on his mail route, delivering mail.<sup>71</sup> Having no prior police training or employment meant Vollmer had not been exposed to police subcultural biases, nor was he beholden to any politicians prior to becoming Chief.

Instead, Vollmer drew on his military background and knowledge of European policing philosophers (e.g. Hans Gross and Eugène François Vidocq) in an effort to modernize Berkeley's police force.<sup>72</sup> Believing educating officers were better situated to become modern crime detectives, and thus ensure crime reduction, Vollmer began instituting new programs drawing on cutting edge methods of police patrol including the use of bicycles, marksmanship standards, call-box communication, fingerprinting, and critical thinking development.<sup>73</sup>

Vollmer's methods gained him acclaim with other police managers, eventually leading to him being appointed to head the California Association of Police Chiefs in 1907.<sup>74</sup> By 1916, Chief Vollmer had convinced the University of California at Berkeley (his local college) to begin teaching courses in criminology,<sup>75</sup> which allowed him to institutionalize officer requirements mandating college degrees.<sup>76</sup> By 1917 several other police agencies had requested him to come and aid in their department's modernization efforts. In 1929, Chief Vollmer was asked by the President and U.S. Congress to investigate police corruption and submit recommendations to

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70 (University of California Berkeley, 2016)

71 (Bennett & Hess, 2007, pp. 6-7) (Carte & Carte, 1975) (Dempsey & Forst, 2012, p. 20) (Miller, Hess, & Othmann, 2011, p. 9) (Miller S. L., 1999, p. 79) (Wilson, 1953)

72 (Carte & Carte, 1975) (Wilson, 1953)

73 (Miller, Hess, & Othmann, 2011, p. 10)

74 (International Association of Chiefs of Police, 2016)

75 (Dinkelspiel, 2010)

76 (University of California Berkeley, 2016) Note: Berkeley Police qualifications for officers still require a college degree, or a combination of college and work experience. Berkeley Police continue to hold a professional reputation as one of the nation's most progressive police agencies.

President Hoover's National Commission on Law Enforcement (The Wickersham Commission.)<sup>77</sup> It was Vollmer's commission report entitled, *The Police* which allowed legislators to justify crafting and instituting police professionalization reforms, which included addressing growing police violence used on citizens and suspects.<sup>78</sup>

Vollmer's book, *The Police and Modern Society* (1936) has also been cited as being instrumental in reforming American police methods and philosophy. His book remains a classic in law enforcement circles, and was an example of why reform minded experts should be used to advise policymakers rather than simply seeking police executives or lawyers.<sup>79</sup> A central theme of the book involves promoting the idea of officer education and training. Vollmer's commitment to education resulted with him being appointed to the position of Professor of Police Administration by both the University of Chicago, and the University of California at Berkeley.<sup>80</sup> Vollmer's ongoing educational push eventually led to him to successfully advocate for the University of California at Berkeley to open the nation's first School of Criminology in 1947.<sup>81</sup> Criminologists Dempsey and Forst in, *An Introduction to Policing*, note Vollmer's accomplishments writing,

"...Vollmer instituted many practices that started to professionalize the U.S. police. Among these practices was incorporating university training as part of police training. Vollmer also introduced the use of intelligence, psychiatric, and neurological tests to aid in the selection of police recruits, and initiated scientific crime detection and crime-solving techniques. In addition, Vollmer helped develop the School of Criminology at the University of California at Berkeley, which became the model for programs related to law and criminal justice throughout the United States. In addition to authoring the *Wickersham Commission Report's* volume *The Police*, Vollmer trained numerous students who went on to become reform-oriented and progressive police chiefs."<sup>82</sup>

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77 (Bennett & Hess, 2007, pp. 6-7) (Carte & Carte, 1975) (Dempsey & Forst, 2012, p. 20) (Miller, Hess, & Othmann, 2011, p. 9) (Miller S. L., 1999, p. 79) (Wilson, 1953)

78 (Dempsey & Forst, 2012, p. 20)

79 (Miller, Hess, & Othmann, 2011, p. 10)

80 (Wilson, 1953, pp. 101-102)

81 (University of California Berkeley, 2016)

82 (Dempsey & Forst, 2012, p. 20)

This pairing of education and policing was a new and bold shift away from the image held by police of the time as mindless violent thugs. Because Vollmer's reforms were adopted as a nationwide shift, modern criminal justice textbooks refer to Vollmer as the 'Grandfather of Modern American Policing.'<sup>83</sup> Vollmer is also important to HoPD history, as he is indirectly responsible for the reforms which took place in Honolulu in 1932 (and which will be outlined in detail later in this chapter).<sup>84</sup>

Vollmer is also credited with having trained and encouraged other important reformers of the time, for example O.W. Wilson and (most importantly for our intersectional link) William A. Gabrielson. O.W. Wilson is known best for authoring *Police Administration*, which led police agencies (nationwide) to restructure into the professional bureaucracies Americans are familiar with,<sup>85</sup> while Lt. William Gabrielson is better known to Honolulu residents as the HoPD's Chief (1932-1946) who took over the department in the wake of the Massie Trial and began HoPD's age of professionalization.<sup>86</sup> O.W. Wilson and August Vollmer's books and teachings both focused on restructuring police agencies into para-military bureaucracies which mandated officers be educated and trained in crime detection. According to Walker, the task of restructuring police agencies during Wilson and Vollmer's reforms was so overwhelming as to prevent either from focusing directly on the issue of individual accountability, meaning accountability was thought to be inherent within the idea of educating officers and having them take personal accountability in their actions. Walker writes specifically about Wilson's not focus on accountability noting,

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83 (Dempsey & Forst, 2012, p. 20) (Miller, Hess, & Othmann, 2011, p. 9)

84 (Boylan & Holmes, 2000, p. 19) (Straus, 1978, pp. 30-36)

85 (Bennett & Hess, 2007, pp. 6-7) (Dempsey & Forst, 2012, p. 20)

86 (Honolulu Police Department, 2016 (CGB))

“Wilson’s primary focus was on the purely formal aspects of organization such as the proper organizational structure, the chain of command, and the rational allocation of patrol officers according to workload. Missing from this approach to police management was any explicit discussion of what police officers actually do on the street. As the emerging social science literature on the police discovered, police officers routinely encountered complex and ambiguous situations, exercise broad discretion, and, in the absence of meaningful guidance, can engage in questionable actions.”<sup>87</sup>

This meant although police officers in progressive police agencies of the day (i.e. Berkeley P.D.) were being mandated into education and professional training, there remained no official tools to oversee rank-and-file officer’s accountability other than Vollmer (the Chief) and individual self-discipline (the officers themselves). Although Vollmer and Wilson have both been credited with professionalizing and transforming police into modern bureaucracies, what is not discussed is how they inadvertently removed half of the informal oversight mechanisms existing during the political era; the political bosses. Although some loose forms of direct accountability were developed throughout the colonial and political eras of policing from 1778 -1920s, modern concepts surrounding police accountability only began after the Wickersham commission.<sup>88</sup> These conceptual and methodological shifts brought about by Vollmer are why most police historians point to 1930 as beginning the second paradigm shift within police development referred to as the reform (or professional) era of policing (1930 – 1980). The professionalization era is remembered largely for divorcing police from the influences of political strongmen, and resituating formalized social control into bureaucratic agencies who worked within local, state, or federal political bureaucracies. This also marks the point when Vollmer and Wilson’s teachings became institutional within all policing models nationwide. Although historians have clumped this era into a single idea around professionalization of the industry ending around 1980, evidence supports police accountability during this period as being divided into two distinct philosophical time frames; the professionalization era (1930 – 1970), and the citizen

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87 (Walker, 2005, p. 23)

88 (Bennett & Hess, 2007, p. 6)

oversight decade (1970 – 1980). I make this distinction as oversight of police conduct involving violence against minorities, women, the poor, and the disabled did not begin to excel until after the introduction of civilian led oversight of police in 1970. Civilian-led oversight began due to pushback resulting from the civil, women's and student's rights movements.

As the idea of police accountability began to gain steam after the Wickersham Commission in 1929, WWII drew lawmakers attention away from reforming police and towards national security priorities. Incidentally, 1929 is also the pivotal moment when we begin discussion of HoPD modern history and bureaucratic reform. The reason citizens were not so demanding of police reform during the 1930s involves the fact many citizens who would have normally protested police abuses of power and governmental overreach (i.e. feminists, communists, and doves) became supportive of anti-Nazi/imperial Japanese policies. This nationalistic shift left very little protest against America's political policies (both on crime and foreign policy.)<sup>89</sup> However, once the war ended and veterans began to return, police accountability and oversight again became a focal point for social discourse. This post-war shift was largely due to women and minority veterans again becoming involved in clashes with police over political or civil rights, wherein police often used violence to control citizen's conduct. Claire Bernish, a journalist with the Free Thought Project, wrote about this phenomenon noting how once veterans returned there was a violent push-back against police. She writes,

"With nearly 10 percent of the town's [McMinn County, TN] population fighting overseas, the beleaguered citizens didn't feel there was much they could do to fight the nefarious political machine...By 1946, most GIs had returned home to find the liberties and freedoms they assumed they'd fought for quashed by the succession of zealous sheriffs and their deputies, who made a racket of roughing up and arresting the former soldiers. But their profiteering scheme wasn't exactly well-received."<sup>90</sup>

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89 (Bennett S. H., 2005)

90 (Bernish, 2016)

By the 1950s police overreaches of authority and power (which relied on violent control techniques), together with protests from returning veterans (many of whom were minorities), had policymakers and Supreme Court Justices reacting to racist and prejudicial conduct of police. It is important to note how women like anarchist political activist and writer Emma Goldman, who had been actively protesting police abuses of violence and authority since well before both World Wars, were not receiving the same recognition as minorities by policymakers as they began to create reform policy directed at police violence.<sup>91</sup> However vivid images during the 1950s and 1960s of Martin Luther King leading peaceful demonstrations confronted by police violence often showed women being the targets of police K9, fire hoses, and police clubs, thus demonstrating how women were targeted as frequently as men by police. This further deepens how interconnected police-based violence against women and ‘others’ have been, as it is clear police subculture does not distinguish ‘the enemy’ across gender or sexuality lines. Instead police see control and power as absolute, and anyone challenging their power must be oppressed even if this calls for them to operate outside (or on the fringes) of legal policy. These domestic conflicts provoked policymakers to make decisions between either fighting communism abroad and advocating for minority rights as a national defense strategy, or fighting domestic battles to quell uprisings and forgoing a communist containment.<sup>92</sup> Minority soldiers returning from combat who experienced a form of partial integration and acceptance while fighting overseas, often found themselves returning to segregated communities whose views continued to be racist and xenophobic<sup>93</sup> despite their military service, which eventually caused these veterans to seek new communities in northern cities where residents views were more accepting and progressive.

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91 (Ferguson, 2011, pp. 25-29, 227)

92 (Skrentny, 2002, p. 29)

93 (Kempski, 2012, p. 2)

Additionally, many Americans who prior to WWII were used to farming and living in rural areas had learned new skills during the war driving them to move into urban areas by the early 1950s.<sup>94</sup> This urban migration brought about new policing problems as noted by Paul Finkelmann, author of, *The Encyclopedia of African-American History, 1896 to the Present*. Finkelmann writes,

“As the number of blacks in urban areas grew, protests against their living conditions caused some of the state’s larger communities to erupt in violence in the 1960’s.”<sup>95</sup>

Despite the 1950s and 1960s being hailed by many politicians as a time of economic prosperity, this prosperity was not evenly distributed. The economic growth following WWII made economic disparity felt by African-Americans obvious to any who looked, resulting in domestic push-back against policy.<sup>96</sup> This furthers Hill’s argument of how class, race, gender, sexuality, and ability are all interlocked and systems of oppression which police target. Mostly undertrained, and lacking any accountability or oversight, police were sent to confront and quell these situations which often resulted in large-scale urban riots directed towards disenfranchised African-Americans who were protesting these inequalities.<sup>97</sup> Compounding this economic racial disparity was the fact policymakers chose to involve America in conflicts in Korea and Vietnam, which gave rise to student and anti-war protesters<sup>98</sup> who often collaborated and joined with minority rights activist, women, and other socially conscious protesters who were attempting to draw attention towards unpopular political policy.<sup>99</sup> All of these groups eventually came to see police as the representation of oppressive governmental policies, which bolstered police’s image

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94 (Welling, 2012)

95 (Finkelman, 2009, p. 475)

96 (Wang, 2012)

97 (Miller, Hess, & Othmann, 2011, p. 11)

98 (Miller, Hess, & Othmann, 2011, p. 11)

99 (Skrentny, 2002, pp. 33-34)

as ‘the enemy’,<sup>100</sup> and fostered a systemic idea within police that liberals, students, minorities, and radicals were their enemy. This fundamentally grounds Feminists (and other scholars) argument of how police are used as a political tool to further colonialization and oppressive public policy targeting all categories included in Hill’s interlocking systems of oppression.

Linda Miller, Karen Hess, and Christine Orthmann, who authored *Community Policing:*

*Partnerships for Problem Solving* noted this tumultuous period for police writing,

“Antiwar protesters, civil rights activists, and other groups began to demonstrate in order to be heard. Overburdened and poorly prepared police came to symbolize what these groups sought to change in their government and society. Focusing attention on police policies and practices became an effective way to draw attention to the need for wider change. Police became the targets of hostility, which ultimately led police leaders to concerned reflection and analysis...A number of organizations within the policing field became committed to improving policing methods in the 1970s. Among those on the forefront of this movement for constructive change were the Police Foundation, the Police Executive Research Forum, the National Organization of Black Law Enforcement Executives, the Urban Sheriff’s Groups of the National Sheriff’s Association and the International Association of Chiefs of Police. These organizations conducted much of the basic research that led police to reevaluate traditional policing methods.”<sup>101</sup>

Attention to police violence became fodder for legislators who felt there was an urgency to address and quell these domestic issues in order to ensure homeland security, as communist leaders used these incidents as propaganda pointing to police violence and social inequality as being demonstrative of why capitalism was an evil to be cured by communism.<sup>102</sup> John D. Skrentny, Professor of Sociology at the University of California at San Diego, in his book *The Minority Rights Revolution*, examined how WWII shifted national priorities and politics into allowing minorities and women a greater voice in social control policy as a concession for increasing homeland security specifically to address police violence. Skrentny demonstrates how policymakers were (once again) not so much concerned about ongoing police-based violence against race, class, gender, sexuality, or ability, as they were with the idea of saving the political

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100 (Miller, Hess, & Othmann, 2011, p. 11)

101 (Miller, Hess, & Othmann, 2011, pp. 11-12)

102 (Ibid, pg.29)



system against foreign intrusion and allowing further American colonization in Asia. Skrentny writes,

“The minority rights revolution could not have occurred without the prior world battle against the Nazis and Japanese and the Cold War struggles with the Soviet Union. World War II and especially the Cold War’s broadly defined “national security” policy which had important legacies in domestic politics...Race or ethnic discrimination, especially when practiced by those of European ancestry, was wrong. In short, geopolitical developments set into motion a dynamic where policies defined as furthering the goal of national security by fighting Nazism or global communism- including equal rights policies- found bipartisan support and rapid change in political fortunes.”<sup>103</sup>

These national security/homeland defense decisions which began in the early 1940s had taken root within political discourse and policy formation by the later part of the 1960s. Having made the decision that stopping communism was more important, lawmakers chose to make domestic concessions which included making police conduct accountable to outside parties.<sup>104</sup> Walker and others have noted how the modern period of citizen-led oversight accountability began as a result of these concessions in 1969, and were empowered by judicial decisions surrounding police abuses and the minority rights revolution. In his book *The New World of Police Accountability* Walker writes,

“Despite its achievements, the professionalization movement still left many problems unaddressed, particularly with regard to accountability and the control of use of force and race discrimination. Two powerful external forces engulfed the police in the early 1960s and exposed these failings: the intervention of the U.S. Supreme Court into police operations and the civil rights movement.”<sup>105</sup>

The 1970s were also a moment in American history when governmental policy towards militarizing police began (i.e. Nixon’s passage of the Omnibus Crime Act.) Militarization of police is of significant importance as it directly links to my research into ‘the warrior mindset’ (outlined in Chapter 3) which I argue is the main catalyst for the rise in police-based violence against women and the mentally ill stemming from HoPD officers following APEC training

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103 (Skrentny, 2002, pp. 7-8)

104 (Ibid, pp. 28-30)

105 (Walker, 2005, p. 22)

shifts. Militarization of police during the 1970s is important to discussions of domestic policy as it marked the moment in which government declared police involvement transferring from a ‘war on crime’ towards the ‘war on drugs’.<sup>106</sup> With Attorney General Jeff Sessions refocusing police funding back to the ‘war on drugs’ and hyper-militarization of police following the election of President Trump,<sup>107</sup> lessons from this policy shift take on increasing significance. Because citizen-led external accountability was an emerging concept during the 1970s for police managers and lawmakers, it became important to define what police accountability would mean and what form it would take. Walker notes how the 1970s began to give definition to police accountability in the modern era, which has carried forward. Walker notes modern accountability means,

“Police accountability has two basic dimensions. On one level, it refers to holding law enforcement agencies accountable for the basic services they deliver: crime control, order maintenance, and miscellaneous services to people and communities. At the same time, however, it also refers to holding individual officers accountable for how they treat individual citizens, particularly with regard to the use-of-force, equal treatment of all groups, and respect for the dignity of individuals.”<sup>108</sup>

This new concept meant both internal and external accountability issues (and departmental accountability verses individual accountability) were being recognized as important, as neither pathway of accountability had been fully developed or installed into the existing police bureaucracies.<sup>109</sup> This fact contributed to the loss of public trust in governmental self-accountability which plummeted during the Watergate era of the 1970s.<sup>110</sup> Public distrust was fueled by suggestions of models where departmental oversight was left in the hands of police

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106 (Balko, 2013, pp. 70-74)

107 (Benen, 2017)

108 (Walker, 2005, p. 7)

109 (Ibid, p.23)

110 (Walker, 2001, p. 35)

chiefs.<sup>111</sup> In another of Walker's books entitled *Police Accountability: The Role of Citizen Oversight*, he notes,

"The reform agenda of the professionalization movement included securing expert leadership for police departments, freedom from external (i.e. political) influence, the application of modern management principles to police organizations, and elevation of personnel standards for officers."<sup>112</sup>

For many American's this was nothing more than political era accountability wrapped in a new term; professionalization. As willing as police managers appeared in making institutional reforms, the truth was that police managers were (and continue to be) unwilling to abdicate any bureaucratic control or authority over their departments operations or policy formation. During this period reformers, legislators, commissioners, researchers and civil rights advocates faced police managers who took a, '*don't worry your pretty little head over policing, let us professionals do the thinking*' type, attitude.<sup>113</sup> Walker notes this fact writing,

"The core principle of police professionalism is that law enforcement agencies have both a responsibility and right to manage their own affairs, just as other professions enjoy a high degree of autonomy and control over their domains. To this end, generations of police managers have strenuously fought the actual or threatened intrusions into their managerial prerogatives, whether by U.S. Supreme Court, citizen oversight agencies, or police unions."<sup>114</sup>

Police Chiefs' solutions to accountability problems were to institute models abdicating for faster response times, more preventative patrols, and improved investigation work. These were the three staples police managers touted as being the remedy which would lead to an overall greater accountability of individual officer conduct.<sup>115</sup> While police managers were attempting to placate reform activists and legislators with assurances of professionalization, they were simultaneously militarizing both police personnel and equipment in an effort to institutionalize S.W.A.T. teams

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111 (Walker, 2001, p. 21)

112 (Ibid, p. 21)

113 More will be discussed on this topic when examining HoPD Chief Kealoha and the Honolulu Police Commission.

114 (Walker, 2001, p. 21)

115 (Miller, Hess, & Othmann, 2011, p. 15)

for militarized responses to urban riots and daily crime fighting<sup>116</sup>, and began to make bridges between military and civilian strategies for policing. Public scrutiny of government during the 1970s did not alleviate tensions or problems facing police oversight beginning in the 1950s. The deinstitutionalization of the nation's mental health facilities, and return of Vietnam veterans who were unable to reintegrate into daily life, added an influx of mentally ill and homeless on an already overwhelmed and undertrained police force who began to include the mentally ill within their frame of 'enemies' to be controlled.

All of these variables pointed to the need for more scientific solutions to resolve new social problems being placed on police officers. *The Kansas City Preventative Patrol Study* (1972) attempted to assess whether police managers' three prong strategies would be able to obtain greater police efficiency and accountability using only professionalization and stem growing police violence and social push-back.<sup>117</sup> The study found how investment in the three staples of professionalization had no effect on increasing accountability or decreasing crime rates.

According to Miller, Hess, and Orthmann who quoted George Kelling's (*The Kansas City Preventative Patrol Study's* primary researcher) study,

"Research about preventative patrol, rapid response to calls for service, and investigative work- the three mainstays of police tactics- was uniformly discouraging. Research demonstrated that preventative patrol in automobiles had little effect on crime, citizen level fear, or citizen's satisfaction with police. Rapid response to calls for service likewise had little impact on arrests, citizen satisfaction with police, or levels of citizen fear. Also, research into criminal investigation effectiveness suggested that detective units were so poorly administered that they had little chance of being effective (Kelling, 1988. P.4)"<sup>118</sup>

Walker adds to Kelling's findings about professionalization's shortfalls noting how, despite denials from police managers, the very concepts of accountability was absent from O.W.

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116 (Balko, 2013, pp. 70-74)

117 (Ibid, p.14)

118 (Miller, Hess, & Othmann, 2011, p. 15)

Wilson's book used to reorganize and professionalize modern police bureaucracies. According to Walker,

"An even more revealing index of the failure of professionalization is O.W. Wilson's textbook, *Police Administration*, which was generally regarded as the authoritative bible on the subject of how to manage a police department and which had guided almost two generations of police chiefs. A close reading of Wilson's text illuminates the extent to which professionalization simply ignored what we today regard as basic issues of police accountability. Even the 4<sup>th</sup> edition published in 1977 contains no reference to police discretion and no admission that it is pervasive in police work and can potentially result in serious mistreatment of citizens."<sup>119</sup>

Together with the new academic studies proving how crime was not affected by professionalization, public and legislative support in reform program funding declined, resulting in the abandoning of new policing concepts (e.g. team policing.)<sup>120</sup> Professionalization as concept for police accountability fell under more scrutiny with the publication of two landmark criminological journal articles, Herman Goldstein's *Problem-Oriented Policing* in 1979, and James Wilson and George Kelling's *Broken Windows* in 1982.<sup>121</sup> Both *Problem-Oriented Policing* and *Broken Windows* concepts included ideologies of police management which were counter to traditional autonomous policing models institutionalized within modern police bureaucracies. *Problem-Oriented Policing* (POP) is can be best summarized as,

"Problem-oriented policing places a high value on new responses that are preventive in nature, that are not dependent on the use of the criminal justice system, and that engage other public agencies, the community and the private sector when their involvement has the potential for significantly contributing to the reduction of the problem."<sup>122</sup>

While POP concept involves engaging community programs instead of the criminal justice system to remedy crime, the *Broken Window* theory encouraged non-autonomous preventative policing strategies drawing on proactive (rather than reactive) policing concepts (e.g. police find

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119 (Walker, 2005, p. 23)

120 (Miller, Hess, & Othmann, 2011, p. 15)

121 (Ibid, p.15)

122 (Goldstein, 2001)

crime rather than waiting for a call to respond.) The *Broken Window* theory is best summarized Kelling and Wilson as,

“The model focuses on the importance of disorder (e.g., broken windows) in generating and sustaining more serious crime. Disorder is not directly linked to serious crime; instead, disorder leads to increased fear and withdrawal from residents, which then allows more serious crime to move in because of decreased levels of informal social control. The police can play a key role in disrupting this process. If they focus in on disorder and less serious crime in neighborhoods that have not yet been overtaken by serious crime, they can help reduce fear and resident withdrawal. Promoting higher levels of informal social control will help residents themselves take control of their neighborhood and prevent serious crime from infiltrating.”<sup>123</sup>

Walker notes how by the mid-1980s both articles, which outlined new policing philosophies and management styles had gained popularity amongst criminologists and policymakers. Together with shifts in legislative demographics towards greater minority representation, these new policing concepts were influential enough to foster a new movement toward civilian led oversight. This new reform movement was distinct from those advocating for professionalization in that these new models involved the addition of external accountability mechanisms not run or staffed by professional police personnel. These external ideas addressed skeptics of police who held strong public distrust in government’s ability to be self-accountable by adding a civilian oversight component.<sup>124</sup> Walker notes,

“Two changes in American politics fostered support for citizen oversight of police. At the municipal level, African-Americans steadily gained political power, capturing mayor’s offices and seats on city councils. At the same time, there was a significant shift in public attitudes among all Americans about government and the control of official misconduct.”<sup>125</sup>

As police violence against minorities, the mentally ill, and drug users grew, police accountability concepts continued to grow towards addressing oversight of police using multiple avenues of review simultaneously (i.e. internal and external/ departmental and individual.)<sup>126</sup> The 1980s and 1990s saw many legislators charged with developing police reform policy willing to finally

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123 (Kelling & Wilson, 1982)

124 Ibid (p. 34)

125 (Walker, 2001, p. 35)

126 (Walker, 2005, p. 9)

address police-based violence and pass legislative changes or enact bills creating more external independent check-and-balance institutions specifically designed to oversee police-based use-of-force.<sup>127</sup> While now appeasing many reformers and citizens, this legislative repositioning also created a push-back from police and police advocates who refused to believe that non-professionals had any business in overseeing police conduct. Stiff resistance from conservative legislators who favored a militarized buildup of police<sup>128</sup> was bolstered by a new and growing institution surrounding police, police unions. Police unions' influence in policy development continued to grow after the accountability push during the 1960s<sup>129</sup>, as unions became galvanization points for police officers, supervisors, and police managers who were upset at accountability and professionalism reforms being situated outside of the department's chain-of-command.<sup>130</sup> As I will connect further within this chapter, this is also the point when HoPD went from being progressive, to retarding backwards as a result of union interference with oversight reform.

Despite local politicians being willing to reform police using new civilian-led oversight models, federal and state level legislators were not as receptive. Federal and state policymakers (supported by police lobbyists and police unions) were adamantly opposed to allowing public input into formalized social-control institutions and thus having a say in whether police could be directed to use violence as a control method, instead arguing how S.W.A.T. priorities were needed to fight President Reagan's simultaneous 'war on crime' and 'war on drugs.'<sup>131</sup> Balko notes this writing,

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127 (Walker, 2005, p. 36)

128 (Balko, 2013, pp. 167-169)

129 (Walker, 2001, p. 28)

130 (Ibid, p.28)

131 (Balko, 2013, pp. 143-145)

“By the late 1980s, the policies, rhetoric, and mind-set of the Reagan-Bush all-out antidrug blitzkrieg had fully set in at police departments across the country. Nearly every city with a population of 100,000 or more either had a SWAT team or was well on its way to getting one. The tactics that ten years earlier had been reserved for the rare, violent hostage-taking or bank robbery were by now employed daily by large police departments from coast to coast.”<sup>132</sup>

This division between local legislators’ aspirations for reforming how police used force and policed individuals, and federal and state legislators who sought increased police militarization to maintain political control, resulted in a stalling of accountability reforms thus leaving the responsibilities of oversight back in the hands of police managers. Police managers, now caught in the middle between those who sought greater officer oversight and those wanting to stem outside management of police militarized conduct, often turned to bastardized versions of the *Broken Windows* and *Problem-Oriented Policing* strategies to develop possible solutions. These altered conceptualizations avoided inverting power and control or management models, while attempting to apply more integration of officers to targeted minority communities experiencing high-crime rates.<sup>133</sup> Miller, Hess, and Orthmann note,

“In the 1980’s many police department began experimenting with more community involvement in the ‘war on crime.’ Also during this decade several cities tested Goldstein’s ‘Problem-Oriented’ approach to policing. The emphasis in many departments began to shift from crime fighting to crime prevention.”<sup>134</sup>

Unfortunately, these tactics often simply put more Caucasian male (or likeminded African-American male) officers into minority communities, which resulted in continued violence being directed from the police towards minorities. While uncommon, a handful of progressive police managers experimented with the idea of external independent citizen review far before their widespread national acceptance in the 1990s. According to Walker, who researched the development of civilian-led accountability, these few departments’ experimenting with independent civilian review were: 1) Kansas City, KS. (Office of Citizen Compliance -1969), 2)

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132 (Balko, 2013, p. 198)

133 (Childress, 2016)

134 (Miller, Hess, & Othmann, 2011, p. 15)



Berkeley, CA. (Berkeley Police Review Commission -1973), 3) Detroit. MI. (Board of Police Commissioners -1973), 4) San Francisco, CA. (Office of Citizen Complaints -1982), 5) Portland, OR. (Police Internal Investigation Auditing Committee - 1981), and 6) Minneapolis, MN. (Civilian Review Authority -1990).<sup>135</sup> Noticeably absent from Walkers list and study but present long before other communities conceptualized or attempted external overview, and most important to my analysis of police oversight was Honolulu, HI. (Honolulu Police Commission – 1932). The fact Honolulu began experimentation with civilian-led police oversight during the 1930s means HoPD and Honolulu were once situated as one of the most progressive police agencies in the county, until shifts in the 1970’s by the police union (SHOPO) undid all of the progressive advances.

While some police agencies began experimenting with independent review, these bodies were constantly scrutinized by both police managers and union officials as ‘*not understanding police work*’.<sup>136</sup> What the public came to realize by the 1990s was although local lawmakers were onboard and supportive of accountability reform, federal agencies (i.e. Federal Bureau of Investigation, Central Intelligence Agency, Immigration and Customs Enforcement, Drug Enforcement Agency, U.S. Customs, Alcohol Tobacco and Firearms, etc.) were all excluded from these conversations.<sup>137</sup> It was these same federal police agencies (i.e. D.E.A, A.T.F) who were continuously engaged in violent raids on minorities who were suspected of drug involvement. Walker describes how this gap in accountability morphed into the development of non-

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135 (Walker, 2001, pp. 31-38)

136 (Ibid, p.12)

137 (Ibid, p.41)

governmental agencies (NGO's) whose purpose was to coordinate and encourage oversight growth across all aspects of American policing. Walker writes,

"By 1985, the oversight movement had matured to the point where its leaders established a professional association, the International Association for Civilian Oversight of Law Enforcement (IACOLE). Membership consisted of both paid staff and unpaid lay board members of oversight agencies in the United States and other countries. Without a staffed office, however, IACOLE's activities remained rather limited. By the 1990s, significant division appeared within IACOLE, and a group of Americans established the National Association for Civilian Oversight of Law Enforcement (NACOLE) to focus on purely American concerns...And by the late 1990s there were enough oversight agencies in the San Francisco-Bay Area of California to support a regional professional association, the Bay Area Police Oversight Network (BAPON)."<sup>138</sup>

Since IACOLE's inception, this movement has constantly met stiff opposition from the growing number of police unions nationwide.<sup>139</sup> In 1993 this stalemate shifted away from police and towards reformers, with the election of President William 'Bill' Clinton. Clinton's election marked a noticeable shift in federal, state, and local police policy and accountability philosophy with the passage of the Violent Crime Control and Law Enforcement Act (Omnibus Crime Act) of 1994. This transitional moment marked the final paradigm shift in police history recognized in current criminological textbooks, commonly known as the Community Policing Era (1990 – onward, or 1990 - 2008.) This benchmark was largely due to policy and funding reprioritization towards programs that supported community based policing strategies, commonly known today as Community Policing, and provided new support for external accountability conversations. However, within a decade of starting these new progressively transparent models would be forced to reconfigure or cease.

Although there is an academic debate over when exactly professionalization or the professional era in police development exactly began and ended, most police historians agree by the time the

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138 (Walker, 2001, p. 41)

139 NACOLE is currently engaged in aiding police agencies in setting up civilian auditors into internal affairs positions as part of a new oversight concept. This topic will be explored in greater detail in Chapter 5.

Department of Justice opened COPS (The Office of Community Oriented Policing Services), funded by the Omnibus Crime Act of 1994, the Community policing era of police development was underway.<sup>140</sup> Despite continuing accountability/oversight advancements taking place within a very small percentage of police agencies nationwide currently, the 1980-1990 decade of citizen-led independent review was brought to a sudden halt with the national reprioritization, restructuring, and reauthorizing of policing powers days after September 11, 2001.<sup>141</sup> This sudden and drastic shift, away from community policing, (I believe) marks yet another paradigm shift in American policing towards complete police militarization, which the country has not experienced since 1810 across America and 1945 in Hawaii. It's for these reasons I (and many other criminologists and journalists) refer to the period after 9.11 as a '*militarized era*' in police policy and philosophy development, which begins in 2001 and has continued forward to the present day largely due to a reinvestment by President Trump's administration.

With a clarification made in how modern paradigm shifts in police development appear, I turn attention back to how accountability of police in the continental 49 states has been addressed during the two most modern periods of policing (Community Policing and Militarization). The 1990s shifted, and simultaneously polarized, police accountability reform efforts across America between reformers who wanted oversight situated outside of police agencies and police advocates who wanted a continued investment in professionalization. Police officers bolstered union numbers and funding throughout the 1980s and 1990s by mandating enrollment as part of employment, resulting in a strong federal and state legislative lobby away from external accountability legislation and towards continued militarization funding.<sup>142</sup> Local reformists and

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140 (Weisel, 1999)

141 (Priest & Arkin, 2011, pp. 3-6)

142 (Balko, 2013, pp. 193-194) (Walker, 2001, p. 28)

legislators, on the other hand, saw Presidential investment into community-based proactive policing as a signal that formalized governmental social-control institutions may be ready for greater public accountability situated outside of the departments or bureaucracies.<sup>143</sup> In his book *Rise of the Warrior Cop: The Militarization of America's Police Forces*, Radley Balko notes this how conflicted policy surrounding reform was during the Community Policing era writing,

“The election of Bill Clinton in 1992 gave hope to some in the drug reform community that an admitted pot smoker who had some ties to the counterculture during college days might bring a less aggressive and less militaristic approach to federal drug policy. These hopes were dashed pretty quickly. Clinton and his appointees weren’t as bellicose as Reagan and Bush or Meese and Bennett, but the policies that Clinton implemented showed little understanding or appreciation of the Symbolic Third Amendment.”<sup>144</sup>

As the new police unions lobbied and financed propaganda aimed at convincing both public opinion and legislators against Clinton’s proposed community based changes using external accountability models, accountability reformers began (and continue) to urge policymakers to see these outside mechanisms as the greatest tool against police autonomy and violent conduct. Simultaneously, police unions began to challenge the authority of the lone professionalism tool of oversight (the police chief) using new employment laws which shielded officer’s misconduct within complex employment safeguards meant to defend police from wrongful termination. Walker notes this police union push-back against internal and external oversight policy reform writing,

“The rise of the police unions [during the 1980s] had enormous consequences for police management, stripping chiefs of the autocratic power they had historically enjoyed. And as the New York Civil Liberties Union concluded in 1990, ‘Staunch opposition from police unions is the single greatest reason why civilian-controlled systems are not commonplace around the country.’”<sup>145</sup>

Arguing how studies had revealed dangerous and deadly patriarchal discriminatory practices within police subculture, industrywide, more researchers began joining reform activists in

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143 (Balko, 2013, p. 193)

144 (Ibid, p.193)

145 (Walker, 2001, p. 28)

pushing for outside oversight of police agencies.<sup>146</sup> Walker notes how despite strong opposition during the 1990s it was still a period where citizen models of police accountability rose nationwide writing,

“By the end of the 1990s citizen oversight of the police was firmly established as an important feature of American policing. There were about 100 separate oversight agencies, with new ones being established on a regular basis. This represented a substantial growth from only 13 in 1980 and 38 in 1990. About 80 percent of the police departments in the fifty largest cities had some form of [external] oversight. There were also oversight agencies for county sheriff’s departments, state police agencies, a number of Native American tribal police departments, and at least one university campus police department. The Iowa Citizen’s Aide/ Ombudsman was authorized to handle complaints against any governmental official in the state, which included the many small towns and rural sheriff’s departments.”<sup>147</sup>

Community centric policing shifts combined with new external citizen-based accountability mechanisms resulted in a gradual increase in approval ratings of police for those communities investing in dual oversight approach models (external & internal / police chief & independent review).<sup>148</sup> To better adjust departmental service, some police agencies went so far as to survey citizens. However, all of these progressive approaches came to a sudden halt on September 11<sup>th</sup>, 2001, when lawmakers were publicly supported in reconstituting police and their policies away from being public servants and towards *hunters of terrorists* ‘hiding amongst us.’<sup>149</sup>

After 9.11 community policing was de-prioritized both directly through funding shifts towards militarized programs (as outlined previously), and indirectly through the dismantling of community policing programs within departments.<sup>150</sup> In the days and months following the terrorist attacks in New York civilian-led police oversight and accountability commissions were routinely denied access to documents needed to review police actions, instead being told how

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146 (Brown & Heidensohn, 2000) (Martin, 1996) (Miller S. L., 1999)

147 (Walker, 2006, p. 40)

148 (Braga & Weisburd, 2010, pp. 46-47)

149 (Priest & Arkin, 2011, pp. 3-6)

150 Ibid (pp. 3-6)

police conduct, policies, and reports are now part of national defense.<sup>151</sup> This informational denial was (and continues to be) largely due to the new interconnectivity which has positioned police with national defense strategies.<sup>152</sup> After police were repositioned after 9.11 into being first responders to possible terrorist activity, all of their activities were covered by national security safeguards and no longer reviewable or open to external scrutiny. All police conduct is now shielded by an umbrella of security involving police reports, actions, and tactics which may involve national defense strategies or tactics. In other words, police are no longer subject to review by non-authorized national defense personnel who do not have top-secret (need to know) security clearance.<sup>153</sup>

Law professor Matthew C. Waxman, in his article, *Police and National Security: American Local Law Enforcement and Counterterrorism After 9/11* published in the, 'Journal of National Security Law and Policy' notes how even funding justifications have shifted away from the 'war on drugs' and instead are using 'homeland security,' to force legislators hands.<sup>154</sup> Waxman writes U.S. Attorney General Ashcroft's statements after the 9.11 attacks made clear how the White House had a new role for local and state law enforcement which did not include accountability whose informational access did not entitle them to top-secret information stating,

"To meet this new threat and to prevent future attacks, law enforcement officials at all levels of government – federal, state, and local – must work together, sharing information and resources needed both to arrest and prosecute the individuals responsible and to detect and destroy terrorist cells before they can strike again."<sup>155</sup>

Information sharing by federal agencies with local agencies has effectively made all information top-secret when discussing clearance, and appears to be a current tool of misinformation within

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151 (Waxman, 2009, pp. 396-397)

152 (Ibid, p. 394-396)

153 (Ibid, p.395)

154 (Ibid, p. 377)

155 (Ibid, p.377)

the Trump administration under Attorney General Jeff Sessions who has continuously pointed to a drastic rise in national crime (despite empirical evidence to the contrary.)<sup>156</sup> Waxman notes in his article how this repositioning of local law enforcement into the national security models has had the effect of restricting external police accountability mechanisms from their ability to access information.<sup>157</sup> This has led many external civilian-run accountability tools to breakdown, or be disbanded for being ineffective. This informational black-out also appears to be what has occurred in Honolulu subsequent to the militarization shifts made by HoPD for the Asian-Pacific Economic Cooperative (APEC) in 2008 again making intersectional bridges between what is occurring in the mainland to how police control the public in Honolulu.

According to Waxman this shift towards national security has left many communities ill-equipped to provide accountability of police (as I will be demonstrated has been the case in Honolulu after APEC in Chapter 4), while other communities lack the mechanisms to even begin external oversight all together.<sup>158</sup> Waxman states how communities lacking effective external oversight tools are at greatest risk to victimization of abuses in police power.<sup>159</sup> Noting federal institutions have created mechanisms addressing oversight of police which are not present in local or state institutions, Waxman warns how it is still incumbent on local legislators to design tools to oversee police departments' (now) secret activities. Waxman writes,

"Of course there are exceptions and reasons that in some cases scrutiny may be more robust at the state and local levels than at the federal level. For example, state and local governments lack of formal authorities for designating and maintaining classified information such as those the federal government uses, which help keep information from the public domain. Other mechanisms for promoting local police compliance with constitutional and other legal rules include criminal and civil liability, internal inspections, and citizen oversight boards. One interesting question, though, is whether at the state and local levels there are sufficient checks on secret activities, because some layers of inter-branch or non-governmental monitoring are likely to be weaker and less formalized at state and local levels, or in some locales, than at the federal level. At the very least, it is likely that oversight will remain highly uneven across

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156 (Levine M. , 2017)

157 (Waxman, 2009, pp. 398-399)

158 (Ibid, pp. 398-399)

159 (Ibid, pp.398-399)

different states and localities, depending on variation in institutional mechanisms, civic culture, and the strength of local watchdog and advocacy groups or branches.”<sup>160</sup>

What Waxman does not include within his legal analysis, is how existing civilian-led police accountability mechanisms have been affected by police indoctrination into the national Fusion Center operational model, and how this lack of oversight has led to an increase in police violence (again) being directed towards minorities, women, the poor, and the mentally impaired.

National Fusion Centers were brought online after 9.11, as a legislative fix to jurisdictional squabbles between law enforcement agencies that contributed to information gaps leading to the 9.11 attacks.<sup>161</sup> Fusion Centers’ main purpose is to coordinate local, state, and federal law enforcement counter-terrorism efforts<sup>162</sup> and act as information clearing houses for law enforcement which often transfer classified national security information and counter-terrorism operational tactics between agencies.<sup>163</sup> By systemically including Fusion Centers into local police information gathering and distribution models, it has effectively made police records and reports which were previously used by civilian oversight boards as monitoring tools into classified documents subject to redaction or censorship.<sup>164</sup> Balko notes how increased funding for para-military equipment actually began in 1998 with legislative passage of the National Defense Authorization Security Act.<sup>165</sup> The National Defense Authorization Security Act later shortened to ‘the 1033 program’, went unnoticed and was barely used by local police agencies until defense contractors saw police interconnectivity into homeland security as an opportunity to expand the marketplace for military equipment.<sup>166</sup> After 9.11 the 1033 program became a

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160 (Waxman, 2009, pp. 398-399)

161 (9/11 Commission, 2004, p. 390)

162 (Department of Homeland Security, 2016)

163 See COC 1 –Receive (information) (Bureau of Justice Assistance, 2013, p. vii)

164 (Bureau of Justice Assistance, 2013, p. 12)

165 (Balko, 2013, p. 242)

166 (Ibid, p.209)



primary source for local police agencies to retool, retrain, reprioritize, and utilize S.W.A.T. style police officers for routine calls (i.e. serving warrants) on a national scale under the auspices of homeland security.<sup>167</sup> Balko notes how S.W.A.T ideology within policing expanded writing,

“In response to the terrorist attacks of September 11, 2001, on the World Trade Center in New York City and the Pentagon in Washington, the federal government opened a new spigot of funding in the name of fighting terror. Terrorism would also provide new excuses for police agencies across the country to build up their arsenals and for yet smaller towns to start up yet more S.W.A.T. teams. The second half of the decade also saw more mission creep for S.W.A.T. teams and more pronounced militarization even outside of drug policing.”<sup>168</sup>

According to Balko and Waxman, this mixture of local police departments being able to withhold requested information combined with the shift in Federal funding away from community policing, has resulted in heightened public frustration with concepts surrounding police transparency and accountability.<sup>169</sup> This new inclusion of local police into homeland security models has also provided police managers with justification for decreasing community policing programs importance, while prioritizing, ‘first-shooter training’,<sup>170</sup> which subsequently is also what occurred in Honolulu as a result of APEC.

The change in policing practice is a major factor why strain appears to be building again between local police agencies and their communities.<sup>171</sup> Within this trend of growing public dissatisfaction of police methodology are two contributing variables. First, unlike the 1980s, police managers find themselves in a position of having to address public concerns of individual officer’s misconduct without new policing concepts like Problem-Oriented or Community Policing strategies. Currently, debates surrounding whether criminal justice is even a legitimate field of study<sup>172</sup> has also retarded scholarly research into advancing police theory and thus

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167 (Balko, 2013, p. 242)

168 (Ibid, p. 242)

169 (Ibid, pp.242-243)

170 (Balko, 2013, p. 242) (Devera, 2016) (Levine M. , 2011 (UOF))

171 (Balko, 2013, pp. 242-243)

172 (Carnevale & Cheah, 2015)

prevented new models of policing from being suggested or implemented. This has resulted in many police chiefs attempting to placate legislators and police reform advocates in an investment in accreditation as a method of accountability and thus misconstruing both the tools and arguments surrounding civilian-led oversight. This bridges my discussion to Hawaii, and how police managers and SHOPO leaders continue to misinform and politically mislead policy-makers, the public, and uniformed activist into believing civilian-led oversight and accountability is a disastrous policy which will both jeopardize public safety and destroy the ability of police to perform their duties.

### **2.3 Policing in Honolulu During the Kingdom and Regime Change**

As previously alluded to, at one point during the 1930's HoPD was one of the most progressive policing agencies in the United States, beckoning the question: "What happened to make it the fifth deadliest state in the United States in terms of police-based homicides per capita?"<sup>173</sup> As was demonstrated by tracing police violence to colonialization by European monarchs, rebuilding frames of historical perspective is helpful in translating modern issues. It is important to note that as I analyze HoPD history, what I found was little documentation exists around HoPD and Hawaii's historical development in general. I also found the documentation which does exist is said to be both biased and controversial by indigenous Hawaiian groups, making translation both a sensitive and political issue. This appears due to several reasons, the most obvious of which was mentioned earlier and centers on whose version of the events is recorded, and who is analyzing history. Another contributing factor to why Hawaiian policing history is controversial was due to indigenous Hawaiians not having a written language until after 1820,

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173 (Grube, 2015 (KMP))

which limits all writings on the subject to white colonists who were motivated by agendas distinct from the monarchy.<sup>174</sup> This institutionalization of writing and reading on Hawaii is also problematic due to its interconnectivity with the arrival of Christian missionaries to the islands in 1820, who again had agendas distinct from the monarchy.<sup>175</sup> This appears to mean that all information surrounding the development of formalized social control institutions prior to 1820 has been subjected to oral transmission variables (a problem inherent to oral transmission of messages.<sup>176</sup>) Understanding there are several complexities surrounding the researching of history of Honolulu, I attempted to draw all my information from individuals considered as either local experts (whose roots were well founded amongst Hawaiian scholars) or by experts in modern Honolulu history whose work can be verified by empirical evidence. Considered by many Honolulu historians as the author representing the most detailed summation of HoPD's history, Leon Straus, author of the book, *The Honolulu Police Department: A Brief History*, draws his information from both his experience as a HoPD Assistant Chief (spending over thirty-years in HoPD before retiring from the Training Division in 1964) and from being a witness to many behind the scenes conversations which his position allowed him to access. Straus follows the development of formalized institutional social-control on Oahu through (what he calls) the community policing era of HoPD during the 1970s, providing me vital information into the history of HoPD from its development during the period where Hawaii was ruled as an independent Kingdom.

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174 (Straus, 1978, p. 3)

175 (Ibid, p. 3)

176 Any child who has played the game "telephone" (where a message is secretly passed from person to person which usually ends quite differently than it began) is familiar with how oral historical narratives transform over time.

Using Straus' research on HoPD, together with my revamped assessment of American police paradigm shift development, I create a modern matrix of HoPD's development which illustrates both the distinctions and interconnectivity between police development on the continental United States to that of Hawaii. Based on Straus' research, it appears paradigm shifts in HoPD modernization occurred roughly during the same periods as other 'Mainland'<sup>177</sup> police agencies nationwide, with some differences. I have deduced that while most American police agencies have experienced five distinct stages or eras of police development, HoPD paradigm shifts appear to revolve around six time frames: the Kingdom Era (Pre-1840-1840), the Colonial Era (1840 – 1893), the Political Era (1893-1931), the Professional Era (1932 -1990), the Community Policing Era (1990 – 2008), the Militarization Era (2008 – Present). Like the colonial and political era of police development across America, I have found that professionalization marks an important intersectional point between Hawaii and mainland police development situated around August Vollmer and William Gabrielson. What this means is while HoPD's colonial development is important in explaining how and why HoPD's may differ from other police agencies nationwide and why Honolulu police-based violence against women and the mentally ill is directly linked to an ongoing colonial project, other periods of historical development expose how police in Honolulu were counted upon by the US federal government to maintain control over the island as a national defense necessity while simultaneously implementing one of the most progressive police oversight systems in the United States. As previously alluded to, this progressive policy in officer and departmental oversight was largely due to the investment in an

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177 Mainland is a slang term used in Hawaii to categorize or describe what occurs or originates from other US states outside of Hawaii. 48 states plus Alaska comprise what Hawaiian residents see as the "US Mainland". This further illustrates the geographic remoteness and distinctions which Hawaiian residents characterize themselves as having.

external citizen-led accountability tool implemented in 1932 (40 years ahead of the most progressive police agencies elsewhere nationwide.)

As was the case with tracing police violence on the mainland, frames of understanding need to be constructed which account for how American colonialization projects of Hawaii deferred from European socio-political models used to establish and maintain control of the categories situated within Hill's interlocking systems of oppression (race, gender, sexuality, class, and ability.) This is partially due to the distinction between what Colonial America and Colonial Hawaii instituted as legal and social control methods. Also important to distinguish in these new frames of understanding was how European colonization was largely based on economic expansion of existing empires using racial and gender based-violence, whereas Hawaii was colonized by the United States as part of manifest destiny largely using Christian missionaries and legal trickery.<sup>178</sup> The earliest record of the Kingdom of Hawaii instituting a formalized institutional control was after unification of the islands took place by King Kamehameha I and was called the Hawaii Marshal.<sup>179</sup> The Hawaii Marshal used a set of laws known as '*kapu*'.<sup>180</sup> This is a contrast to the laws that formalized and instituted economic and violent control over slavery in the American colonies.<sup>181</sup> Because many indigenous Hawaiians are still tied to the idea of Hawaii returning to a sovereign kingdom and thus reject all forms of government and control which occurred after 1889 and which I will expand on in Chapter 3, the original concepts developed during the period of the Kingdom of Hawaii remain important in acknowledging how

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178 (History.com Staff, 2016)

179 (Straus, 1978, pp. 6-7)

180 Ibid (p.2)

181 (Levin, 1968) (Wong & Aiwohi, 1992)

to police social conduct throughout the state and in future policy development if HoPD is ever to be acknowledged by indigenous groups as a legitimate form of institutional social control.

Ralph Kuykendall, a Hawaiian Historian, whose book *The Hawaiian Kingdom: Volume III The Kalakaua Dynasty*, explains why the monarchs of the Hawaiian Islands (e.g. Kamehameha I, Kamehameha III, Kamehameha V, Liholiho, etc.) were quick to institutionalize Anglo-euro social control mechanisms and philosophy and adopt Euro-American forms of social control. Proof Hawaiian monarchs adopted Euro-American forms of policing policy include: Kapu law discontinuation by King Kamehameha II (1819);<sup>182</sup> the publication of criminal codes (1827);<sup>183</sup> the ‘Laws of the Sandwich Islands by Kauikeaouli, the King’ (1835);<sup>184</sup> The Kingdom of Hawaii Constitution (1840);<sup>185</sup> Chapter V’s addition to the Kingdom’s Constitution entitled *Of Police Officers and Constables* (1841);<sup>186</sup> Title II, Section I, Chapter I of the Act of 1846, which prescribed an office called the Marshal of Hawaii (1846);<sup>187</sup> and the Hawaii Kingdom Civil Code of 1884 which included the first official codified Penal Codes (1885).<sup>188</sup> To believe formalized social control was forced on monarchs by colonialists prior to 1885 appears problematic, as Hawaiian monarchs implemented all of the above listed domestic policies while still being a sovereign government and in control of the mechanism which policed both colonists and the indigenous population.

What Kuykendall also makes clear during this period of sovereign rule is the importance of American, English, and Russian soldiers, arms dealers, and traders in Kamehameha I’s ability to

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182 (Straus, 1978, p. 2)

183 Ibid (p.4)

184 Ibid (p.4)

185 (The Kingdom of Hawaii Website Staff, 2016 (PH)) (The Kingdom of Hawaii Website Staff, 2016 (CH))

186 (Straus, 1978, p. 4)

187 Ibid, (p.6)

188 (The Kingdom Of Hawaii Website Staff, 2016 (CC)) (The Kingdom of Hawaii Webstaff, 2016 (PCK))

unify Hawaii into a single sovereign nation in 1810.<sup>189</sup> Kuykendall stresses how these strategic alliances between Kamehameha and Caucasian off-landers carries forward into close ties between Hawaiian monarchs and white male outsiders after Kamehameha I's passing. Colonialization ties are also important to understanding why and what direction the rapid socio-political changes in Hawaiian history took from 1819 – 1885, and how American colonialism was implanted into Hawaiian domestic policy, and more specifically Hawaiian policing policy. Although Hawaiian laws were not institutionalized to support African-American slavery (despite influence by colonizers), there were power imbalances within *kapu* making the law unpopular amongst certain island gender groups (most notably women<sup>190</sup>) and which begin to make intersectional ties to why women have historically bore the struggle of inequality within legal and criminal justice policy in Hawaii. Christian missionary influence into legal and socio-political development in 1820, together with King Kamehameha III's economic investment in sugar, is important for historic understanding of why Hawaii's social policing institutions were reformulated towards controlling minority populations, and thus transforming into an extension of American colonization aimed at oppressing minorities.<sup>191</sup> What this meant was while slave patrols played an important part in US mainland policing development as a tool to control race, Hawaiian policing biases were centered more on maintaining a peace between indigenous groups and those who were colonizing at the expense of immigrant labor. More simply, immigrant labor took the place of African slave-based labor bias within early Hawaiian policing policy.

As the King's investment in sugar grew, so grew white (haole) businessmen's acquisition of land and political influence into the Kingdom's affairs, which included who and how formalized

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189 (Pu'ukohola Heiau National Historic Site Staff, 2016 (KKi)) (The Kingdom of Hawaii Website Staff, 2016 (PH))

190 (Ulukau Webstaff, 2016)

191 (Kuykendall, 1967, pp. 46-52)

social control would be constituted.<sup>192</sup> This meant American colonial ambitions were deeply tied to how policy was being constructed or recommended to the monarchy. The influx of foreigners to Hawaii brought with it diseases devastating the indigenous populations (much like the experiences of Native American tribes with European colonists), which ultimately led to higher levels of immigrant labor be imported to help grow and fund a growing national economy.<sup>193</sup> The shrinking indigenous population also resulted in the monarchy and haole businessmen strategizing on methods for controlling foreign labor through laws which ultimately supported the (mostly) white American owned sugar plantations. This imbalance effectively allowed for Caucasians to lobby monarchs to aim racial policies towards new “outsiders”, and away from them. This also meant Hawaiian police policy was being shifted towards targeting new immigrants more than white men,<sup>194</sup> thus distinguishing how different but similar policing policies were between police agencies on the U.S. mainland to those in Hawaii. Finally, in 1874 sugar-backed economic and U.S. military<sup>195</sup> interests began to differ from those of the Hawaiian monarchy to the point it began pitting the two parties against each other.

Adding to this problematic divide between American colonists and Hawaiians was the fact King Kamehameha V had died without naming a successor, leaving Hawaii without someone on the throne. Hawaiians (unlike power-grabs for authority in Europe and around the world) decided to allow their indigenous population to vote for the next monarch (a historical moment in Hawaii and for globalized concepts of democracy.)<sup>196</sup> Prince David Kalakaua (backed and financed by white Sugar-barons) was competing in an election with the Dowager Queen Emma

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192 (Kuykendall, 1967, pp. 79-115)

193 Ibid (pp. 117 -119)

194 Ibid (pp. 116-117)

195 Ibid (pp. 388-392)

196 Ibid (pp.14-15)



Kalanikaumaka‘amano Kaleleonālani Na‘ea Rooke (widow of Kamehameha IV, and commonly known as Queen Emma.) Queen Emma was widely supported by the indigenous population largely due to the fact she supported indigenous rule over the islands rather than being a puppet for white sugar barons.<sup>197</sup> It was during this election where police in Honolulu became political pawns of American colonialism and ultimately became critical in securing regime change away from a sovereign monarchy. This problematic political position of the police further distinguishes HoPD’s historical development from all other policing institutions in the United States, as police became a tool used by American colonists to justify and ultimately support American colonial expansion in a foreign country.

Straus uses Kuykendall, and Hawaiian historian Gavan Daws author of the book *Shoal of Time*, to note how Honolulu Police and their Chief’s abandoned their duties during at a critical moment which eventually is used to overthrow the monarchy. Straus writes how during the installation of King Kalakaua Honolulu police allowed a collapse in social order and riots to take place in downtown Honolulu following the elections. This is an important moment in HoPD history, as it would be the actions of Honolulu police and the Marshall in allowing Honolulu’s social order to decay into chaos which eventually provides the fodder for colonists’ justification in petitioning for (and forming) both the *Honolulu Rifles* and the *Committee of Safety*. Straus notes this historic collapse of police services during the 1874 elections writing,

“The campaign to select a new monarch was a spirited one. There were two candidates, David Kalakaua (the loser to Lunahilo in the first election) and the Dowager Queen Emma, widow of Alexander Liholiho, Kamehameha IV. Both waged good campaigns, and on February 12, 1874, members of the Legislative Assembly gathered at the Courthouse on Halekauwila Street to elect the new monarch. Emotions ran high, particularly among Hawaiians, many of whom favored Emma over Kalakaua. When the result of the balloting was announced as being 39 for Kalakaua against six for Emma, the Queen’s supporters rioted. Her supporters stormed a carriage waiting to transport a special committee to announce to Kalakaua that he had been elected, and tore it apart, using part of the ruined carriage as weapons. Members of the special committee were beaten, the Courthouse was invaded by the enraged mob, and other members of the Assembly were attacked and thrashed, and one death was recorded. Marshal Parke being in receipt of intelligence that trouble might be expected at the Courthouse, had assembled a force of about 80 police

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197 (Straus, 1978, pp. 14-15)

officers to control whatever the situation might develop into. Parke's intentions were good, but his planning, such as it was, failed to accomplish whatever it was intended to accomplish. Kuykendall notes that 'the police were wholly ineffective; many of them took off their badges and mingled with the crowds.' Daws says that 'once the first blows were struck, the constables threw away their badges and fought according to their political convictions.' Parke himself is said to have taken a position in front of his own office, armed with a pistol, and he saved his own records, but he later noted that 'the Courthouse is a wreck.' Once the police joined the rioters, the government was all but helpless to exercise control, in spite of the efforts of influential members of the community, including Sanford B. Dole. Only a combined force of U.S. and British Marines, coming ashore at the request of high government officials, quelled the riot."<sup>198</sup>

Straus notes how it wasn't until Queen Emma made a public acknowledgment of Kalakaua's legitimacy to the throne that Honolulu police were able to restore social order.<sup>199</sup> This event played into the consciousness of the haole community on the island, leading many haole colonists to justify an acquisition of firearms and political control. By 1880 tensions between the declining indigenous population and the rising haole populations (which then dominated Hawaiian sugar, business, and religious institutions) had reached a boiling point. Growing numbers of Hawaiians felt land ownership, economic, and political control of the Kingdom was dominated by the influx of white men who had designed and manipulated policy into disenfranchising them from inherent land, property, political, and economic guarantees.<sup>200</sup> Despite King Kalakaua appearing to have political alliances with haole sugar-barons, many of his views were counter to the political agenda of both American colonial and military interests. These political divisions came to another conflictual peak in 1887, setting into motion the first governmental coup by haole colonists known commonly in Hawaiian history as 'the Bayonet Constitution' (1887).<sup>201</sup> One factor contributed to the 1887 political coup appears to be directly connected to the size, training, and loyalty of institutionalized civilian police forces under the Kings control at the time; Honolulu police.<sup>202</sup>

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198 (Straus, 1978, pp. 14-15)

199 Ibid (p.15)

200 (Kuykendall, 1967, pp. 246-249)

201 (The Hawaiian Kingdom website staff, 2014)

202 (Kuykendall, 1967, pp. 350-353, 361-366)

As pointed out, after the 1874 riots many haoles felt the need to arm themselves against rising animosities between themselves and Hawaiians.<sup>203</sup> After colonists continuously petitioned the king to form their own armed defense force, King Kalakaua legitimizing their conduct by granting a petition for an organization to be formed known as ‘The *Honolulu Rifles*’ in 1884.<sup>204</sup> The group’s ranks initially consisted of haole Civil War veterans residing in Honolulu, but whose popularity as a social group (and award winning military drill club) expanded their numbers far beyond those of the Honolulu police and military.<sup>205</sup> By 1886, although Honolulu police employed 36 full-time officers<sup>206</sup> the ranks of the *Honolulu Rifles* had grown to over 100.<sup>207</sup> These facts begin to demonstrate how far before the actual overthrow of the regime American colonists began to plan and ensure they had an upper hand in control over violence. During this period, the full-time military ranks of the kingdom remained very low and operationally fractured<sup>208</sup>, meaning that Honolulu police and the Hawaiian military had very little chance to stop the *Honolulu Rifles* should they attempt to oppose them. In 1887, backed by U.S. military officials, the *Honolulu Rifles* social club petitioned a sympathetic Hawaiian King for recognition as a volunteer military company within official monarchical ranks, which was legislatively authorized the previous year in a Royal decree called *To organize the military forces of the Kingdom*.<sup>209</sup> Prior to the *Honolulu Rifles*’ entry into the royal military ranks, the Kingdoms military consisted of the King’s Household Guard and several independent militias named 1) King’s Own, 2) Queens Own, 3) Prince’s Own, 4) Leleiohoku Guard, and 5)

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203 (Kuykendall, 1967, pp. 350-353)

204 Ibid (p. 350)

205 Ibid (pp. 350-351)

206 (Straus, 1978, p. 17)

207 Ibid (p.351)

208 (Kuykendall, 1967, p. 352)

209 (Ibid, p. 351)

Mamalahoa Guard units.<sup>210</sup> These units were comprised of mixed “Hawaiian and part-Hawaiian”<sup>211</sup> men. This introduction of a large American-military backed (all-white) militia into the very small ranks of the existing Hawaiian military ranks changed the political dynamic between the king and his protectors, and the power balance between the military and police. It effectively meant the Honolulu Police and the Marshall of Hawaii would be facing members of the Royal military if police were directed to confront or stop the *Honolulu Rifles*. This confrontational reluctance by police and the military appears to be what many American colonists counted on when they staged the 1887 challenge to monarchical power objections to American military policy demands.

The 1887 power coup is noted by Hawaiian historians as being successful largely due to the actions of the *Honolulu Rifles* the evening prior to, and morning of, the King’s signing of a new constitution that relinquished many powers of the monarchy.<sup>212</sup> Daws, Kuykendall, and Straus all note how the lawlessness and social disorder which was directly caused by the *Honolulu Rifles* actions across Honolulu was deemed unstoppable by Honolulu police officials, which directly contributed to the King’s decision to abdicate powers of the monarchy and his authority in an attempt to maintain social order and control.<sup>213</sup> According to Kuykendall,

“From a study of the available evidence, it is quite clear that for a while during the evening of June 20 and the morning of July 1 there was a virtual lapse of regularly constituted authority, and the effective control of the city of Honolulu was in the hands of the Honolulu Rifles who were acting theoretically, but not always in fact, under the direction of the executive committee of the Hawaiian League. The occurrences during the morning of July 1 were very disturbing to the king, who took the course of consulting the foreign national representatives accredited to his government.”<sup>214</sup>

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210 (Kuykendall, 1967, p. 352)

211 Ibid (p.352)

212 Ibid (pp.361-363)

213 Ibid (pp.361-363)

214 Ibid (pp.363-364)

The 1887 coup (referred to by indigenous Hawaiians as the Bayonet Constitution) demanded the King sign into a new constitution wherein power and authority was transferred away from the monarchy and towards the Kingdom's cabinet.<sup>215</sup> The new cabinet (known as the House of Nobles) would be elected rather than appointed by the king,<sup>216</sup> which was significant due to the simultaneous constitutional changes in voting laws which disenfranchised Hawaiians ability to vote while empowering American colonists.<sup>217</sup> In effect, only haole Americans could vote, thus reconstituting who sat within the new cabinet. These constitutional changes also solidified unsteady economic trade agreements made with the United States outlined within the *Treaty of Reciprocity* (1875).<sup>218</sup> Noteworthy to this moments importance, but lessor known, the 1887 coup also ensured sole usage of Pearl Harbor to the American Navy (a necessary military port for the Spanish-American war and colonial expansion into the Philippines), and a restriction King Kalakaua contested.<sup>219</sup> This military shift again placed Honolulu police and the Marshal into the position of facing superior American armed forces, should the two ever be forced to confront each other. This also begins to expose how and why Honolulu police were charged by the American military and colonists with progressing American colonization, and how American police-based violent subcultural norms targeting race, gender, sexuality, class, and ability transferred to Honolulu police.

Twice (during the 1893 elections and during the 1887 Bayonet Constitution) Honolulu police and its leadership showed itself to be unable (or unwilling) to place public safety and social order before individual politics, which allowed haole colonists to point to a lack of formalized

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215 (Kuykendall, 1967, pp. 355-356) (Ulukau, 2004)

216 (The Hawaiian Kingdom website staff, 2014)

217 Ibid

218 (Kuykendall, 1967, pp. 355-365)

219 Ibid (pp.392-397)

protection against rising animosity with non-white residents. The four years between the constitutional shifts of 1887 and King Kalakaua's death in 1891 saw American sugar and military financed businessmen's influence in public policy (and the King's cabinet) increase. These increases were largely due to the efforts of '*The Reform Cabinet*, which was now constitutionally in a position of increased power over the monarchy, and in a position to redirect public safety policy.<sup>220</sup> Hawaiian historians also note that increases in haole political control was also due to King Kalakaua's naivety in trusting American advisors during key policy making moments,<sup>221</sup> and during the constitutional changes made to voting laws in 1887.<sup>222</sup> There is little doubt how the increasing influence of the reform cabinet played a critical role in maintaining the power balance between the police and the rising numbers and power of the *Honolulu Rifles*.

With the passing of the King in 1891, Lydia Lili'u Loloku Walania Wewehi Kamaka'eha's (the new monarch and nemesis of American sugar barons and military elite, commonly known as Queen Lili'uokalani) was crowned as the new monarch. It soon became clear her political motivations were to reverse socio-political and economic control shifts made in 1887 back towards the indigenous population, in effect reversing all of the colonial backed policy changes made since the 1887 takeover.<sup>223</sup> These shifts directly threatened American-backed socio-political, economic, and military interests on the islands.<sup>224</sup> In order to stop the Queen's political efforts and secure American interests, a second political coup (which included the overthrow of the Marshal of Hawaii) was carried out in January 1893. This time the coup's intent was a complete political transition away from Hawaii being ruled by a monarchy rather than more

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220 (Kuykendall, 1967, pp. 401-405)

221 Ibid (pp. 363-364)

222 Ibid (pp.365-372, 401-414)

223 (Kuykendall, 1967, p. 586)

224 Ibid (pp. 582-587)

political degradation of monarchical authority. This moment is important to Hawaii police development, as it marks another critical historic moment where institutionalized police forces on Oahu (Honolulu) were either in no position, or had no political will, to resist the U.S. military-backed coup carried out by Sanford Dole (owner of Dole Cannery) and a group of foreign-born Hawaiians, Americans, English and German sugar connected strongmen known as the Committee of [public] Safety.<sup>225</sup> Kuykendall notes this moment writing,

“Throughout the night of the sixteenth, while the bluejackets in Arion Hall fought mosquitoes and could not sleep, Marshal Wilson’s police force patrolled the city on the alert for incendiarism and to keep careful watch on all stores that sold arms and ammunition. After dark, munitions were stored in the office of the attorney general of the government building with a man to watch them. On the morning of the seventeenth the guard was removed at Attorney General Peterson’s orders when everything appeared so quiet that Marshal Wilson even dismissed the extra guards at the police station. Yet by eleven o’clock the marshal, who later claimed that he had full information about the activities of the committee of safety (including its time schedule), alerted Captain Nowlein, who commanded the queen’s troops and Household Guards. Wilson needed authorization to act but was unable to get the cabinet together until after two o’clock, and even then was refused permission to act.”<sup>226</sup>

These engineered political coups of the monarchy, and the revolutions for political control which followed, meant police loyalties were directly politically tied to either the monarchy or the American sugar/military-barons who were seeking power. According to Straus, policing on Oahu (HoPD’s jurisdiction) quickly became a both an internal departmental issue, and a social stabilization tool for the sugar-financed haole led political bosses on the day Queen Liliuokalani (and the monarchy) was deposed. Straus writes,

“With the overthrow of the monarchy, a period of transition and adjustment ensued, as the “new government” set about the serious problem of justifying itself and its actions. During the initial two months of this period, Marshal Wilson having been forced from office, a temporary Marshal, F.W. Wundernberg, was appointed, after which the so-called Committee of Safety of the new government appointed E.G. Hitchcock, formerly Sheriff of the island of Hawaii, to the position.”<sup>227</sup>

The overthrow of monarchical power also appears to mark a paradigm shift in HoPD history between colonial policing and a new political interconnectivity era in Hawaiian history which

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225 (Kuykendall, 1967, pp. 586-589)

226 Ibid (pp. 597-598)

227 (Straus, 1978, p. 21)

placed police and newly appointed political bosses in exactly the same position as police and political bosses elsewhere in the United States.

As previously alluded to during the political era across America, it was this type of interconnectivity which was exposed as problematic by Vollmer and the legislature post the Wickersham commission. Straus notes how at this pivotal historic moment, political connections between police and the new government became instrumental in maintaining control over the indigenous population following the overthrow. In an effort to give the appearance that government was stable and maintain control, immediately following the overthrow police systems and models largely remained as they had been when first instituted during the period of the Kingdom with few exceptions.<sup>228</sup> David Stannard, professor of American Studies at the University of Hawaii and author of the book *Honor Killing: Race, Rape, and Clarence Darrow's Spectacular Last Case*, notes the political interconnectivity to restructuring between police and the new American colonial government immediately following the take-over of the monarchy writing,

"The leaders of the haole business and political establishment, all of them Republican, were apoplectic. But because the appointed office of governor – and along with it all other patronage power of classic colonial rule – was theirs, they were not without leverage. Negotiations ensued, and in 1901 the haole elite struck a deal with the Hawaiian leadership. In return for the Hawaiians running more 'reasonable' candidates for the key congressional post- that is, candidates friendlier to the haole perspective, Republican candidates- the haoles agreed to have the governor fill most civil service positions with Hawaiians. For the following two decades and on into the early 1930s, although by then they represented barely 15 percent of the swelling population, Hawaiians held half the elective, judicial, teaching, and governmental clerical jobs in the territory. They also constituted more than 65 percent of the officers in the Honolulu Police Department. At least for the time being."<sup>229</sup>

Police services on Honolulu did not begin in its current bureaucratic form [i.e. Honolulu Police Department] until after the 1907 legislature signed and enacted Act 118, which authorized and created a county government on Oahu known today as the City and County of Honolulu.<sup>230</sup> Until

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228 (Straus, 1978, p. 22)

229 (Stannard, 2005, p. 70)

230 (Straus, 1978, p. 22)



then police on Honolulu were called Honolulu Police, but their organization was controlled by the Marshall of Hawaii and not the Police Chief. The structure and management of the agency did not resemble the modern bureaucratic structure of today's HoPD. Once police services became funded by the City and County of Honolulu, several new political issues connected police and local territorial political bosses; most importantly national security or a continuation of the American colonial project.<sup>231</sup> This again distinguishes both the difference of how and why police and politicians were interconnected in Hawaii from political connections which existed in mainland states. While police agencies across America were interconnected with local politicians in an effort to corrupt federal prohibition policy, Honolulu police's political interconnectivity was to centered on maintaining control of the island its resources over Hawaiians and foreign laborers. As previously mentioned Hawaii was annexed as a territory due to its national security strategic importance during the Spanish American War, thereby furthering the political relationship between haole-led police and American military governmental officials. This again distinguishes the relationship Hawaiian police have to the federal government which is not shared by most policing agencies across America. It also emphasizes why governing officials and military elites have continued to use HoPD to ensure colonial control over the indigenous population. This begins to explain why some modern Hawaiians see HoPD as an illegitimate policing force, and part of the problem rather than part of any solution.

During the period of 1900 – 1930, Hawaiian territorial (haole) officials were often walking a balanced political tight-rope between white supremacist naval officers (commanding military posts on Honolulu)<sup>232</sup> and angry indigenous residents who were powerless to resist militarized

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231 (Zwonitzer, 2016)

232 Ibid

colonization.<sup>233</sup> The demographics of the island was again shifting as Japanese workers were brought in as plantation laborers beginning in 1884. By 1900 foreign Japanese numbered over 60,000 (22% of the total population.)<sup>234</sup> Americans, suspecting a Japanese uprising, rushed to maintain a population balance with the rising Japanese immigration.<sup>235</sup> During this Anglo and Japanese immigration flux, the same period saw the numbers of indigenous Hawaiians continue to fall across the island chain.<sup>236</sup> During the period of 1880 -1930 Hawaiian census numbers record numbers of native Hawaiians remaining under 50,000, total.<sup>237</sup> The overwhelming numbers of haoles to indigenous Hawaiians contributed largely to continued public animosity felt towards haole governmental officials and policy, by Hawaiians.<sup>238</sup> Despite this animosity towards haoles, in 1907 the American territorial government formulated a municipal government (the City and County of Honolulu), and police services became part of the municipal structure.<sup>239</sup>

Unlike the current police structure with an appointed Chief of Police, the head of HoPD in 1907 (called the Sheriff of Honolulu) was an elected position. This was a change from the previous Sheriffs who had been appointed by the Marshall of Hawaii (as was the prescribed model during the Kingdom of Hawaii's monarchy.)<sup>240</sup> Election laws had been changed to ensure only haole colonists could vote. This ensured the political interconnectivity between haoles and the head of HoPD. HoPD maintained this organizational structured from 1907-1932 which helped progress corrupted services. The Sheriff being an elected position forced many in office to be even more politically invested than their predecessors had been. The Sheriff's conduct and loyalty was

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233 (Zwonitzer, 2016)

234 (Nurdyke & Matsumoto, 1977, p. 165)

235 (Zwonitzer, 2016)

236 (Pew Research Center Webstaff, 2015)

237 Ibid

238 (Zwonitzer, 2016)

239 (Straus, 1978, p. 23)

240 (Ibid, p.23)

largely influenced by voting laws and rules being written by new territorial governmental bodies. Because the Sheriff of Honolulu was now acting to directly support the new territorial government and military, Straus notes how Honolulu residents image of HoPD became interconnected to the military take-over, writing,

“During these years, up to 1924, the police function was more or less satisfactory, depending on how one viewed it, although none could say that it was entirely satisfactory; nor could anyone say that it was modern and progressive. The force was a viable political machine, and it was so recognized by the community at large. Politicians were in control, and political demands and favors were accepted as part of the system. The Sheriff being an elected official, it can readily be understood why this was so.”<sup>241</sup>

What Straus calls being ‘politically motivated,’ many indigenous Hawaiians call an institutionalization of colonization. As was the fate of all police agencies across America during the political era due to corrupt interconnectivity with political bosses, community perceptions of police service and officers declined. Straus notes,

“But gradually the people of Honolulu became aware of the fact that the police force and its services was deteriorating. Street corner and neighborhood gangs of hoodlums began operating almost without fear of the police. It was local against local, and local against haole, especially haole servicemen, who were able to compete successfully for the attention of the local girls. Gang fights and assaults were almost every-day affairs, and while it appeared that the police were coping with the situation, the truth of the matter was to the contrary. Sheriff Trask did initiate some measures to control this type of activity, but his measures were considered too extreme, and his efforts achieved no material success. His successors in office fared no better. It seemed to the community in general that there was a lack of positive action on the part of police to preserve order and arrest offenders, and the community was convinced that the police were not effectively performing to curb what it thought was a ‘crime wave.’”<sup>242</sup>

Honolulu historian David Stannard writes how similar social problems that caused legislators to declare a ‘war on crime’ across the United States during the 1920’s also could be seen across Honolulu. According to Stannard, some neighborhoods across the island were filled with lawlessness and poverty during this political era. Stafford writes,

“If this [A’ala and Palama] generally was regarded as the worse section of the city in which to live, one area within it was especially worthy of note because in some ways it was the hub of this part of town. Although it had a Hawaiian name –Kauluwela- it was not a traditional district, but one of several recently created census tracts carved out of overpopulated A’ala and the northwest part of downtown. In Hawaiian, the word kauluwela has two meaning, ‘colorful’ and ‘swarming.’ Both of them aptly described this gathering place where indigent Chinese, Japanese, Filipino, Portuguese, Koreans, Puerto Ricans, and Hawaiians lived under conditions of crowding and degradation equal to that of any city anywhere. Within Kauluwela, and bordering it, was a collection of small neighborhoods with names like Hell’s Half Acre, Buckle Lane, Tin Can Alley, Cunha Lane, Mosquito Flats, Corkscrew Lane, and Blood Alley that were known as the worse of the worst. They had been that way for years, at least since the Chinatown fire at the

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241 (Straus, 1978, p. 25)

242 Ibid (p.25)

turn of the century. In 1911 a visiting journalist who had previously reported on slums and corruption and racketeering in New York and Chicago declared flatly that ‘for downright overcrowding and unsanitary conditions, Honolulu has some of the worse slums in the world.’”<sup>243</sup>

Stannard goes on to note how these lawless neighborhoods were no worse than others across the United States, however were cast by Hollywood into the leading role of being the epitome of social organizational failure. Stannard notes how language (e.g. *true-life story*) was used to mislead the American public into believing Honolulu natives were savage and uncontrollable and that public safety was absent writing,

“Even Hollywood was impressed with the reputed odiousness of this part of town, later promoting on posters and marquees an especially tawdry film, *Hell’s Half Acre*, as a true-life story (“actually filled in Honolulu”) set in the neighborhood famed as ‘the Toughest Spot in the Wide Pacific.’”<sup>244</sup>

As a result of all of these variables during this period, community displeasure of HoPD services continued to grow as residents were confronted with overt political interconnectivity and collusion between police, local politicians, and military officials. This negative image of police continued until a single incident in September 1931 known as the Massie Affair (or the Kahahawai-Massie Affair in Hawaiian lore) sparked massive progressive reforms of police and criminal justice across Honolulu. The Kahahawai -Massie Affair’s importance in overall HoPD accountability development is why it marks the paradigm shift for Hawaiian policing, from the political era into professionalization (1932) and where August Vollmer intersects HoPD development.

## **2.4 The Kahahawai-Massie Affair and Richardson Report**

As previously alluded to, in the years prior to the Kahahawai-Massie Affair, community frustration with police services had reached a level where territorial legislators felt a need to act

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243 (Stannard, 2005, p. 72)

244 (Stannard, 2005, p. 73)

in order to ensure colonization continued across the islands. Straus notes how this developed into a disconnect between residence and police services writing,

“By early 1930, public demands that something be done about crime and the police drew the attention of Governor Lawrence M. Judd. He appointed a commission to study the problem, and some laws were passed in 1931, on the commission’s recommendation, but this did not clear up the crime problem in any appreciable fashion.”<sup>245</sup>

Some of the events which contributed to the Kahahawai-Massie Affair included the fact that by 1920 the U.S. Navy was making use of their exclusive rights over Pearl Harbor and had begun stationing men and supplies onto new bases built on lands legislatively turned over to the military by the new American haole led Hawaiian territorial government.<sup>246</sup> At the same time, territorial legislators were attempting to respond to calls for modernization and growth by island residents, who were still deeply invested in plantation style sugar economics. During this same period (1920s and 1930s) territorial legislators were also attempting to market the island to American mainland tourists, thereby diversifying the islands economy and further entrenching the institutional controls of U.S. haole colonialism. With so many American military and civilians traveling to Honolulu and discovering colonial paradise (characterized as the *Tahiti syndrome*)<sup>247</sup> many chose to stay and make Honolulu their home, thereby unconsciously participating in the American colonial project.<sup>248</sup>

During this period the expanding U.S. Naval forces based in Honolulu were under the command of noted white supremacist<sup>249</sup> Admiral Yates Sterling Jr., who has been characterized historically as “himself a Southern gentleman with nothing but scorn for enthusiastic priests of the melting-pot cult.”<sup>250</sup> Admiral Sterling not only prioritized military wants over any concerns residents of

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245 (Straus, 1978, p. 25)

246 (Zwonitzer, 2016)

247 (Armen, 1968)

248 (Stannard, 2005, p. 67)

249 (Zwonitzer, 2016)

250 (Straus, 1978, p. 26)

Honolulu had, but according to Honolulu historians he actually felt contempt for the islands non-haole residents.<sup>251</sup> White sailors and soldiers being stationed or stopping in Honolulu, and who had grown-up in Southern states, carried with them the values and social norms associated with Jim Crow segregation.<sup>252</sup> For these white Southern-raised soldiers and sailors the sight of white women frolicking with Hawaiian (brown skinned) boys on the beaches wearing only swimsuits was too much for their xenophobic sensibilities, and became an intersectional link between Hawaiians to African-Americans.<sup>253</sup> In similar xenophobic fashion, young island-born boys were also incensed at the idea of haole men coming to this island to whisk away the only women they had access to.<sup>254</sup> This furthered the historic animosity between haoles and non-haole island residents, which was simultaneously fueled by indigenous public land takeovers by the American military. Many Hawaiians viewed these lands as being historically owned by the monarchy and set aside specifically for the Hawaiian people.<sup>255</sup> As a result, many native Hawaiian residents reported feeling helpless and angry at American military personnel who continued to flood into Honolulu.<sup>256</sup> HoPD had not grown as an agency to be able to provide adequate public security for the growing disputes between the influx of sailors on shore-leave and local boys, and were often forced to turn to the navy to augment them in maintaining social order when sailors and local boys brawled.<sup>257</sup> During this same time, the sugar-barons had ordered HoPD to begin union busting operations (similar to Standing Rock, N.D.) due to a growing trend involving striking union sugar plantation workers.<sup>258</sup> This drove a further divide between island non-haole residents

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251 (Zwonitzer, 2016)

252 Ibid

253 Ibid

254 Ibid

255 Ibid

256 Ibid

257 Ibid

258 (Stannard, 2005, pp. 86-88)

and their haoles neighbors<sup>259</sup> forcing police into the role of supporting haoles and their ‘illegitimate’ governmental policies, and furthering a social perception police were an extension of American colonialization.

However integrated HoPD ranks appeared from an external perspective, the reality was HoPD’s departmental subculture was deeply divided along ethnic/racial lines.<sup>260</sup> These police subcultural prejudices within HoPD ranks divided Hawaiian and haoles officers, and would later be put on display during the Kahahawai-Massie trial. Eventually this divide would come to symbolize the deep divide which exist(ed) throughout Honolulu.<sup>261</sup> Another part of the hostility within HoPD, during the 1930s was due to hiring increases of whites into jobs which were guaranteed to Hawaiians during the overthrow of the monarchy.<sup>262</sup> The Honolulu council had increased funding for police and mandated the department grow to 1 officer per every 600 residents.<sup>263</sup> Although funded for more police positions by the county legislature, HoPD’s Sheriff decided to hold most new police positions for haoles immigrants who were relocating to Honolulu.<sup>264</sup>

As I previously stated the Kahahawai-Massie trial was an important historical paradigm moment in American (and Honolulu) criminal justice history for reasons which included: 1) white preference, 2) military intervention to protect the colonial project, 3) murder, 4) honor-killing defense, 5) botched policing and investigatory systems, 6) political interference in judicial matters, 7) racial rape allegations, and 8) inter-departmental racial bias. To understand the Kahahawai-Massie Affair it is important to understand who was involved and what roll they

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259 (Stannard, 2005, pp. 70-79)

260 (Stannard, 2005, p. 187) (Zwonitzer, 2016)

261 (Stannard, 2005, pp. 94,101)

262 (Zwonitzer, 2016)

263 (Straus, 1978, p. 25)

264 (Zwonitzer, 2016)

played in the events leading up to the incident. Among the naval personnel stationed in Hawaii in 1931 was Lt. Thomas Massie, and his 19-year-old wife Thalia.<sup>265</sup> Thalia had originally come from an affluent background, and was the daughter of Grace Fortescue. Grace Fortescue was the niece of Alexander Graham Bell (inventor of the telephone) and granddaughter of Gardiner Hubbard (first president of Bell Telephone Company.) Raised affluently, Grace had married Granville Fortescue (first cousin of President Theodore Roosevelt) in an effort to expand her wealth but instead had exhausted her family's fortune by the 1930s.<sup>266</sup> Thalia's marriage was troubled involving both alcohol and violence, to the point where Thomas had asked for divorce just weeks prior to the incident.<sup>267</sup> Thalia and Thomas's family problems appear to begin in the Fall of 1930 when Thalia enrolled at the University of Hawai'i at Mānoa. There she met Dr. E. Lowell Kelly who worked as a researcher in the Psychology Dept.<sup>268</sup> By the Spring of 1931 Thalia, already in poor health, became pregnant.<sup>269</sup> Her pregnancy was fraught with depression and dangerous hormonal imbalances, which aggravated the ever present fact she was slowly going blind.<sup>270</sup> By midsummer Thalia miscarried, after being diagnosed with preeclampsia.<sup>271</sup> The marriage, now loveless, sent Thalia into depression, which resulted in her contacting Dr. Kelly.<sup>272</sup> Kelly was engaged in couples therapy research (resulting in The Kelly Longitudinal Study), and at the time agreed to counsel Thalia. Thalia's participated in a university-based psychology study and was diagnosed as being ill enough to warrant university doctors to encourage Thomas to seek long term professional assistance for her.<sup>273</sup>

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265 (Stannard, 2005, pp. 34-35)

266 (Zwonitzer, 2016)

267 (Stannard, 2005, pp. 34-40)

268 Ibid (pp.38-39)

269 Ibid (pp. 38-39)

270 Ibid (p. 39)

271 Ibid (p.39)

272 Ibid (pp.39-40)

273 (Zwonitzer, 2016)



On the evening of September 12, 1931 Thalia had reluctantly agreed to attend a social gathering with Thomas consisting of navy officers and their guests at a local nightclub in downtown Honolulu.<sup>274</sup> During the evening, Thalia was involved in several verbal, and at least one physical altercation, with the party's U.S. naval guests. Thalia became enraged at certain guests who had made a point to bring up her poor reputation within the naval officers community.<sup>275</sup> Thalia, as she was reported to often do, stormed out of the party and was reportedly seen by witnesses walking through the neighborhood of Hell's Half Mile followed by an unknown white-male.<sup>276</sup> According to Thalia (whose recounting of specific events, subject descriptions, and overall memory would repeatedly change over the two-year long incident) she was abducted by local men who dragged her into the bushes and repeatedly raped her.<sup>277</sup> Important to note, despite haole xenophobic fears to the contrary, until that moment in history there had never been any official or unofficial allegation in Hawaiian history of an indigenous Hawaiian man raping a haole woman.<sup>278</sup> After receiving a call from Thaila to hurry home, Thomas came home to find a beaten Thaila who told him her story of the alleged attack. Although saying she could not identify suspects, Thomas called HoPD to investigate "an assault of a woman by a man."<sup>279</sup> Just prior to Thomas's call, HoPD had begun broadcasting an all-points bulletin (APB) for a vehicle involved in an unrelated traffic collision, to include its license number 58-985.<sup>280</sup> Also being broadcast openly was the fact a woman (Ms. Agnes Peeples) had been assaulted by four local men who were in the car subsequent to the collision.

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274 (Stannard, 2005, p. 43)

275 (Stannard, 2005, pp. 43-45) (Zwonitzer, 2016)

276 (Stannard, 2005, p. 52) (Zwonitzer, 2016)

277 (Stannard, 2005, p. 55) (Zwonitzer, 2016)

278 (Zwonitzer, 2016)

279 (Stannard, 2005, p. 55)

280 Ibid (p.58)

HoPD detectives and officers, together with naval officials and Thomas, all accompanied Thalia to the hospital for a rape examination by Doctors (who found no evidence of sexual trauma consistent with rape.)<sup>281</sup> While waiting for doctors, police and naval authorities stood near police cruisers and listened to radio traffic involving officers searching for the Peeples suspect vehicle. Mistakenly, they all began to connect the Peeples incident to the Massie rape investigation simply because Peeples had been assaulted near where Thalia said she had been abducted, which fueled the idea to the gathering crowd of military personnel at the hospital that the two cases were linked.<sup>282</sup> Upon finishing at the hospital, all of the police officers, detectives, naval authorities, and friends of Thomas and Thalia headed to HoPD headquarters. Captain McIntosh (a haole) chose himself to lead the Massie investigation. According to court documents, McIntosh chose himself after stating he did not trust or believe non-haole officers or detectives could handle and properly investigate a rape involving a white woman (another issue brought up during the subsequent Massie rape trial).<sup>283</sup>

As luck would have it, at the same time the Massie party was brought to HoPD headquarters Shimotsu Ida (a suspect in the Peeples assault) was also brought into the station. As was police practice during that time, Ida was not told why he was arrested only that police wanted to question him about his sister's car (license 58-985) which he had been driving earlier in the evening.<sup>284</sup> McIntosh called Thalia into his office where she was again questioned about the incident, more specifically about the license number of the car involved in her attack. This time Thalia said "I think it was 58-805."<sup>285</sup> After McIntosh confirmed that Ida's car license (58-985)

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281 (Stannard, 2005, pp. 83-84)

282 Ibid (pp. 83-84)

283 Ibid (pp.85-88)

284 Ibid (p. 89)

285 Ibid (p.91)

was similar to the one just recalled by Thalia (58-805), he ended his interview and confronted Ida. When questioning Ida, McIntosh had already made up his mind about his guilt, and decided to employ violence (standard policing practice of the third-degree interrogation methods) in order to intimidate Ida into confessing.<sup>286</sup> Although Ida adamantly denied being involved with the Massie rape, McIntosh arrested Ida as a suspect setting into motion a long chain of events which ultimately lead to Thomas Massie and Grace Fortescue killing another of the (innocent) rape suspects, Joseph Kahahawai. These investigatory mistakes were not the only examples of flawed police work done by HoPD contributing to Kahahawai-Massie debacle.<sup>287</sup> Other HoPD faux pas occurring during their “investigation” included 1) driving Ida’s vehicle back and forth over the alleged rape crime scene trying to determine if tire tracks matched<sup>288</sup> ultimately leading some residents to believe the tracks themselves were planted evidence by police,<sup>289</sup> 2) misplacing and/or loosing official police reports demanded by defense attorneys,<sup>290</sup> 3) witness tampering by helping Thalia identify suspects Captain McIntosh believed was guilty of committing the rape,<sup>291</sup> and 4) using media to influence potential jurors by releasing names, criminal records, home addresses, and photos of the five men suspected of Thalia’s rape prior to trial thereby shaping public opinion<sup>292</sup>(just to name a few.) In addition to the departmental issues surrounding the Kahahawai-Massie investigation, several historians also point to HoPD Capt. McIntosh’s racism and alcoholism as a primary contributing factor to why non-haole HoPD detectives began

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286 (Stannard, 2005, p. 91)

287 (Zwonitzer, 2016)

288 (Stannard, 2005, pp. 98, 166-168)

289 Ibid (pp.180-181)

290 Ibid (p. 182)

291 (Zwonitzer, 2016)

292 Ibid

leaking damaging evidence to the prosecution's case to the Honolulu media. These leaks also exposed the deep subcultural racial rifts within HoPD.<sup>293</sup>

The rape-trial of Thalia Massie ended in a mistrial, which eventually led to Thalia's mother, her naval escort, Thalia's husband, and two other U.S. Naval sailors kidnapping Joseph Kahahawai (one of the innocent rape suspects) in order to beat a confession from him.<sup>294</sup> Kahahawai refused to confess, which resulted in him being executed by someone in the Fortescue/Massie group.<sup>295</sup> A second criminal trial was held in Honolulu, this time for the murder of Joseph Kahahawai. Famous American criminal lawyer Clarence Darrow was hired by Grace Fortescue to defend her, Massie, and the other white sailors. Darrow chose to defend the killing of Kahahawai by claiming his death was nothing more than a racially-motivated honor killing.<sup>296</sup> Unlike the rape trial, the murder trial ended in a guilty verdict, which 'shocked' the conscious of white people across the nation and brought legislative and political scrutiny to the islands concepts of law-and-order.<sup>297</sup> Newspapers across the U.S. characterized Hawaiian criminal justice as *monkeys prosecuting upstanding white-folk*.<sup>298</sup> Political pressure by U.S. Naval leaders on the island's haole led territorial government resulted in Governor Judd commuting the sentence given to Fortescue and the sailors from 10 years to 1 hour.<sup>299</sup> By the end of both trials related to the Kahahawai-Massie Affair, Straus notes how public confidence (both nationally and locally) in HoPD's policing ability (among other criminal justice components) had collapsed.<sup>300</sup> As was the case after the O.J. Simpson trial and verdicts in 1995, massive reforms were sought. In response,

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293 (Zwonitzer, 2016)

294 Ibid

295 Ibid

296 Ibid

297 Ibid

298 Ibid

299 (Straus, 1978, p. 26)

300 Ibid (p.27)

the U.S. Justice Department sent Assistant U.S. Attorney Seth Richardson to Honolulu in 1931 to conduct, “an in-depth survey”<sup>301</sup> of the policing conditions on Honolulu, and throughout the Hawaiian Islands. Straus notes an excerpt from Richardson’s report writing,

“We found in Hawaii no organized crime, no important criminal class, and no criminal rackets. We found no present racial prejudices. Our tabulations do not show that crime, including sexual crime, can properly be laid at the door of the Hawaiians. The amount of sex crime in the Territory seemed less than that reported from many cities and localities of similar population on the mainland. We found, however, ample evidence of extreme laxity in the administration of law-enforcement agencies.”<sup>302</sup>

Straus notes how the Richardson report was “a defining indictment of this arm of government”,<sup>303</sup> which ultimately led congress to investigate (during the same period as the Wickersham Commission) and brings together the intersectional moment where Hawaiian and American policing were both being scrutinized by policymakers in Washington. This meant while Vollmer’s critique may have given policymakers a reason to consider police policy a domestic priority, Richardson give them an international justification to take reform action. Straus goes on to note, “Political control of the police organization had to be eliminated if Hawaii was to regain its place in the sun”,<sup>304</sup> a similar critique as Vollmer made about other policing agencies nationally for much different reasons. Richardson’s report would later become the justification from which the territorial government, and City and County of Honolulu councilmembers passes police reform legislation in 1932, and ultimately what SHOPO lawyers would point to as a method of obstructing reform from the 1970s onward. Local legislation passed in 1932 which was reactionary to the Richardson report, known as *The Police Act*. This legislation marks a paradigm shift within Hawaiian police and criminal justice history towards

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301 (Straus, 1978, p. 27)

302 Ibid (p.27)

303 Ibid (p.27)

304 Ibid (pp. 27-28)

professionalization of bureaucratic systems and begins an intersectional point with August Vollmer. According to Straus,

“...Governor Judd called the Territorial legislature into special session, to consider the problem, and to provide a lawful means by which the main objective, which was to overhaul the law enforcement agencies, could be achieved. The legislature convened to consider the matter, and on January 22, 1932 passed a bill which was signed into law on January 27, 1932, by Governor Judd, as Act 1, Special Session Laws of 1932, an act creating in and for the City of Honolulu a completely new police organizational structure. In the same session, the legislature passed, and Governor Judd signed into law, a bill that affected the office of the City and County Attorney, theretofore an elective office responsible for both criminal and civil matters. The new act separated the two distinct responsibilities by creating (1) the Office of the Public Prosecutor, and (2) the Office of the City and County Attorney. The Public Prosecutor was responsible for prosecuting all criminal cases, while the City and County Attorney was to be responsible for all civil matters affecting the city. Appointments to the respective positions were to be made by the Mayor, subject to confirmation by the Board of Supervisors.”<sup>305</sup>

Straus notes all of the shifts made were designed with the goal of “removal of political control in the affairs of law enforcement in Honolulu.”<sup>306</sup> *The Police Act* called for the creation of an independent civilian oversight commission overseeing police conduct called, The Honolulu Police Commission (HPC).<sup>307</sup> The HPC was to be a five-member civilian-led Police Commission immediately empowered by the City and County of Honolulu to oversee HoPD’s operations and begin reforms of police services. These five individuals were to be named directly by the Governor (subject to confirmation by the Territorial Senate) and were to be replaced by the Honolulu County Mayor (subject to approval by the County Board of Supervisors) in staggered succession.<sup>308</sup> A second provision of the act mandated the HoPD Police Chief to serve at will of the HPC Commission (meaning the HPC was now authorized to hire or fire the Chief and no longer was to be voted into office by residents) and was required to have five years of residency in the Territory.<sup>309</sup>

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305 (Straus, 1978, p. 28)

306 Ibid (p.28)

307 Ibid (p.30)

308 Ibid (p.31)

309 Ibid (p.30)

Additional provisions to the 1932 legislation which created the HPC and resituated Honolulu as a leader in progressive policing policy included: 1) authorizing the Police Chief to hire qualified officers and hold them accountable for rules and policies set by the commission through suspension or termination,<sup>310</sup> 2) authorized the Police Commission to establish a system of training and promotion (based on job merit),<sup>311</sup> 3) empowered the Police Commission to develop and enact rules, regulations, and policies for the conduct of the Police Department and its business,<sup>312</sup> 4) forbade any police official from participating actively in any political campaign in which they advocated the election or defeat of any candidate for public office (minus the right to vote),<sup>313</sup> 5) allowed officers who were disciplined by the Police Chief for a period of more than 60 days (to include termination) an appeal of their punishment to the Police Commission,<sup>314</sup> 6) authorized the Police Commission to compel the attendance of witnesses, administer oaths, to require the production of documents, investigate, and apply to a circuit judge for assistance if needed,<sup>315</sup> 7) authorizing the Police Commission to hire, relocate, and seek qualified professional police instructors from outside Honolulu,<sup>316</sup> and 8) authorized the Police Commission to set standards on hiring for the Police Chief.<sup>317</sup> It was this reconstruction of the entire policing institution in Honolulu that bridges HoPD into the mainstream era of police professionalization across America. This is also the intersectional point directly linked the reforms of O.W. Wilson and August Vollmer to HoPD and the HPC. As previously pointed out, although Samuel Walker points to the two earliest civilian police oversight systems being developed in Los Angeles in

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310 (Straus, 1978, p. 30)

311 Ibid (p.30)

312 Ibid (p.30)

313 Ibid (p.30)

314 Ibid (p.30)

315 Ibid (p.30)

316 Ibid (p.30)

317 Ibid (p. 30)

1928, and New York in 1935, (like many things in American history) his historical timeline omits contributions made by Hawaiians in Honolulu to police development and oversight in 1932, and how at that moment HoPD propelled itself into being one of the most progressive police agencies in the nation.<sup>318</sup>

## **2.5 The Police Act and Honolulu Police Commission (HPC): Oversight ahead of its time**

As previously stated, one major outcome from the Kahahawai-Massie incident was a public perception (locally and nationally) that police services in Honolulu (and throughout the entire state) were inadequate. Also stated was how U.S. Attorney Seth Richardson was tasked by congress with preparing a report explaining what happened during the Kahahawai-Massie Affair, and what problems existed in the criminal justice system in Hawaii. His report entitled, *Law Enforcement in the Territory of Hawaii*, attempted to describe what and how criminal justice institutions on Hawaii had allowed the Kahahawai-Massie incident to occur and where systemic corruption within criminal justice lay.<sup>319</sup> The detailed report made clear the Sheriff of Honolulu, Pat Gleason, ran HoPD corruptly and in collusion with local gangs who largely consisted of St. Louis High School alumni.<sup>320</sup> According to Clarence Darrow (lawyer who defended Fortescue and the Massie gang) who wrote about his experiences during the Kahahawai-Massie Affair in his book, *The Navy and the Massie- Kahahawi Affair: The pot calling the kettle black*, he notes,

“Richardson, with the aid of a staff of lawyers and FBI men, made a thorough investigation of everything concerned with law enforcement. Over 400 citizens of more or less prominence and 300 men on the jury list were interviewed. The Richardson report, appearing April 4, on the eve on the Massie trial, cleared the air somewhat. Richardson found the prosecutor’s office weak, the police force undisciplined and stupid; Oahu prison a mess, the haole ruling class easygoing and shortsighted – but he found no organized crime, no criminal gangs, no race hatred, and no sympathy

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318 (Walker, 2001, pp. 20-21)

319 (Straus, 1978, p. 31)

320 (Richardson, 1932)



for rape. He found the courts able and fair, the jury system as good as on the Mainland. His report let the air out of the wild charges made by the [Navy] admirals and blown up by the sensation-loving press."<sup>321</sup>

Because the Wickersham commission was being run by legislators during the same period as the Richardson report, the report was not the only document which was publicizing police failures. The Richardson report was part of a larger reform project aimed at police which was taking place across America. According to Darrow local residents of Honolulu, and much of the nation, were realizing the same flaws noted in the Richardson report as Vollmer was pointing out in the Wickersham Commission which characterized police services as unprofessional and corrupt. Darrow notes,

"The elected sheriff, an easygoing soul named Pat Gleason, was more interested in luaus than in efficiency. Why worry over petty graft and a few sex crimes by policemen? Between the "St. Louis alumni" [a local Honolulu High School] police ring headed by Gleason and County Attorney Gilliland and the hoodlum element there was more than a little feeling of comradeship. As for catching criminals- an Oregon sheriff put it this way: 'The police here couldn't catch cold if you threw them in a tub of ice water!'"<sup>322</sup>

As a result of public and media pressure, the Honolulu City Council, Hawaii territorial lawmakers, and Governor Judd all worked together to pass legislation creating an external civilian-led bureaucracy whose purpose was to monitor and aid the administration and management of a new HoPD bureaucracy (and its Chief). The bill used recommendations made by Vollmer in the Wickersham Commission and the Richardson report and named the new bureaucracy the Honolulu Police Commission (HPC).<sup>323</sup> Straus writes,

"The "Police Act" (as it soon became known) established, for the first time in the history of police operations in Hawaii, a five member Police Commission, empowered to enact rules and regulations for the conduct of the Department, and its business in the City and County of Honolulu."<sup>324</sup>

*The Police Act* restructured, retooled, and reorganized police services across Honolulu. One important criticism included within Richardson's report which was taken seriously by law-

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321 (Darrow, 1951, p. 30)

322 Ibid (p. 27)

323 (Straus, 1978, p. 31)

324 Ibid (p. 30)

makers as they crafted the legislation was the interconnection between local Hawaiian politician's interests and those of police service.<sup>325</sup> Because Vollmer had highlighted similar issues within his reports to the Wickersham Commission, Richardson's recommendation that any new policing model in Hawaii include provisions forbidding overt political connections from being developed was quickly adopted by Governor Judd and territorial legislators.<sup>326</sup> Straus notes,

"One of the most stringent provisions of the Act prohibited any police officer from participating actively in any political campaign in which he advocated the election or defeat of any candidate for public office, preserving only the right of each officer his franchise of the vote for candidate of his choice. The rationale for this provision was clear: get politics out of the Department, and get police officers out of politics."<sup>327</sup>

Despite legislators wanting to divorce politics from police services, territorial lawmakers understood the HPC's main power over the new HoPD bureaucracy would be contained within clauses which authorized the Commission to hire (or fire) the Chief of Police at will.<sup>328</sup> Although publicly professing a political divorce between local politicians and the police, this clause made the new HPC-HoPD relationship entirely political. Effectively, the legislation produced an external accountability by making the Chief accountable to the HPC if the Chief acted too far outside of the will of the commission; hence there remained a critical but distinguishable political interconnectivity. It was this same political connection which held the HoPD Chief accountable and responsible for all HoPD officers conduct and actions, as well as the departments overall function.<sup>329</sup> This political interconnectivity was vastly different from the corrupt political connections warned of by Vollmer, O.W. Wilson, and Richardson, which stemmed from police attempting to bypass and undermine federal prohibition legislation.

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325 (Richardson, 1932)

326 Ibid

327 (Straus, 1978, p. 31)

328 Ibid (pp. 30-34)

329 Ibid (p. 33)

Despite there being a publicized reform effort to separate police powers from local politicians, Governor Judd and the territorial administrators appeared to understand how it was a necessity to maintain political interconnectivity between the HPC-HoPD as a means of external accountability if oversight of police was to be established. *The Police Act* of 1931 also contained important clauses allowing the HPC to review and veto any disciplinary measure instituted by HoPD's Chief, again interconnecting the two agencies politically. These legislative clauses cemented HPC into the position of being a civilian-led external oversight police mechanism, well before the concept became popular across the U.S. during the 1970s. Straus notes this writing,

"Another provision of the Act authorized the Chief of Police to suspend any officer found guilty of violating any of the rules and regulations of the Commission for an aggregate of not more than 60 days in any one year. Any officer so suspended could appeal the action of the Chief of Police. Still another provision allowed any officer who was demoted or dismissed by the Chief of Police to appeal that action to the Commission. That body was empowered to entertain the appeal, or refuse to hear the appeal, and from the latter action of the Commission, there was no further avenue of appeal."<sup>330</sup>

Although appearing counterproductive to the idea of preventing intertwining political involvement, the fact police and policing services were now beholden to a civilian-review board pushed political power away from governmental monopolism, and towards Honolulu residents. In effect, Vollmer and Richardson had provided Hawaiian law-makers with exactly the tools needed to effect real police reform.

There is very little documentation surrounding the first appointments to the HPC, outside of the three noteworthy political appointments (Governor Judd, Frederick D. Lowery,<sup>331</sup> and Edward Ellis Bodge.)<sup>332</sup> Not much documentation exists about the three other appointments to the Commission (Alexander D. Castro, George Ii Brown, and Ernest R. Green) other than they were,

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330 (Straus, 1978, p. 30)

331 A Massachusetts transplant, and President of Lewers and Cooke Sugar (Nishimoto, 1992) (Sharp & Sharp, 1997, p. 174)

332 A Massachusetts transplant, Grand Jury member during the Massie Trial, and personal friend of Walter Dillingham. (Stannard, 2005)

“well-established and successful businessmen and community leaders.”<sup>333</sup> The later three appointments were all replaced by 1935 with politically interconnected Honolulu businessmen, again demonstrating how politically important this oversight agency was.<sup>334</sup> The HPC appointed Charles F. Weeber as the first Chief of Police for HoPD. Weeber was both a military veteran and “man with an impeccable reputation in the business and social communities of Honolulu.”<sup>335</sup> Having no formal law enforcement experience, Weeber and the new HPC quickly made use of new powers which authorized Weeber to seek, hire, and relocate experts in policing to assist him. Weeber and the HPC, like many other policing agencies of the time, looked to Berkeley Police to aid them in reforming HoPD. They recruited August Vollmer’s operations lieutenant, William A. Gabrielson of the Berkeley Police Department, to move to Honolulu as a police adviser to Weeber specifically to reconstruct the HoPD’s bureaucracy.<sup>336</sup> According to Darrow, it was the HPC plan from the beginning to have Gabrielson become the chief, and hiring Weeber was done simply to allow Gabrielson the ability to relocate to Honolulu and meet the hiring requirements which demanded he be a resident for 1 year prior to accepting the position. Darrow notes this writing,

“Under the commission, Honolulu’s police system was thoroughly reorganized. Shedding its small-town, easy ways, it became efficient. William A. Gabrielson was imported from California to be permanent chief of police. Under him, the police learned to spy upon and beat up labor organizers and to make a highly organized efficiently run big business out of the downtown brothels. “Dong-dong” gave place to businesslike graft.”<sup>337</sup>

After a short assessment period, Weeber and the HPC waived the residency requirements and transferred the Chief’s position to Gabrielson.<sup>338</sup> On August 9, 1932, after only seven months on

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333 (Straus, 1978, p. 31)

334 Charles F. Weeber was the personal secretary to Walter Dillingham and a well-known anti-Japanese Washington lobbyist (Stannard, 2005) , and replaced George Li Brown upon resigning as HoPD’s first police chief after 8 months on the job. (Straus, 1978, p. 36)

335 Ibid (p. 31)

336 Ibid(pp.30,35-36)

337 (Darrow, 1951, pp. 29-30)

338 (Straus, 1978, p. 34)

the job, the HPC accepted Weeber's resignation as HoPD Police Chief, and announced Gabrielson as the new HoPD Chief.<sup>339</sup> Just three days after resigning his position as HoPD Chief, Ernest Green resigned as HPC Commissioner and Weeber was appointed to his position on the HPC. This completed the complex installation process of Gabrielson to HoPD Chief, and Weeber to the HPC. What must be remembered as a critical element and motivation behind who was appointed to the HPC during this period, was that civic leaders and businessmen were being motivated by two critical variables. The first was a need to secure national security and political interests controlled by police, the second was a continued investment into furthering the colonialization project by controlling labor unions which haole sugar-barons were heavily invested in and which police oversaw.

Territorial legislators were concerned with national security due to Imperial Japan making overtures of expansion and acquisition of Hawaii.<sup>340</sup> For years the Japanese government saw Hawaii as being important strategically, and felt it had a duty to reunite its ex-patriots who had relocated to Hawaii as laborers with the Emperor.<sup>341</sup> Before American territorial and Honolulu policymakers appointed a total stranger into one of the most important positions of control within Honolulu safeguards had to be negotiated to assure long-standing colonial economic investments would be secured as well as military leaders being assured Gabrielson was 'onboard' with the strategic military importance of Honolulu. Another reason the new HoPD Chief was accountable to the HPC surrounded the fact that Gabrielson's qualifications were that of a professional police officer, which at the time was not seen as a reputable profession.<sup>342</sup> Progressive for its day, *the*

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339 (Straus, 1978, pp. 34-35)

340 (Straus, 1978, p. 43) (Zwonitzer, 2016)

341 (Zwonitzer, 2016)

342 (Walker, 2001, p. 20)

*Police Act* is based off of modern accountability principles outlined by Samuel Walker called ‘mixed systems of accountability.’<sup>343</sup> According to Walker this demands that accountability be both personal and systemic. Walker writes,

“A mixed system of accountability includes a variety of internal and external mechanisms.”<sup>344</sup>

Walker explains how a mixed system models of accountability requires a willingness by lawmakers and government executives to produce legitimate oversight reform policy in order to be effective. Because of public sentiment and political will following the Kahahawai-Massie Affair which demanded reforms of police services, a window of opportunity existed to pass legitimate police reform policy similar to the window existing following the Cachola incident in 2014. According to Walker, personal or special interest agendas cannot overshadow real commitments towards accountability of police or their departments, if mixed system models are to be successful. Walker writes,

“First, and most important, the police chief executive has to make a serious commitment to accountability and to ending officer misconduct. A commitment to accountability means more than mere rhetoric. It means developing and maintaining the recognized best practices in police management and discipline. These include an early warning system to identify officers with recurring performance problems, a consistent and tough pattern of disciplinary action, and the development of an organizational culture committed to “learning” from problems or indicators of potential problems. Secondly, responsible elected officials must also insist on high standards of accountability. In practice, this means that mayors must make accountability the highest priority in selecting and retaining police chiefs.”<sup>345</sup>

According to Walker, another critical element for mixed systems of accountability to be successful is public willingness to be educated and participate in the process, or what is otherwise known as public activism. Following the Kahahawai-Massie Affair, like the period immediately following the Cachola incident, all of these variables were present allowing lawmakers a small window to pass reform legislation. Walker explains the importance of public support writing,

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343 Mixed System of Accountability relies on both internal oversight (IA) and external oversight mechanisms or layers of mechanisms. (Walker, 2001, pp. 185-186)

344 (Walker, 2001, p. 185)

345 Ibid (p.185)

“Finally, the public needs to make police accountability a high priority. The public can act both through the political process, supporting mayors and other officials committed to accountability, and through private civic groups: the local bar association, the NAACP, the ACLU, and other groups that have direct knowledge about alleged police misconduct.”<sup>346</sup>

As previously mentioned Gabrielson took over HoPD in 1932 and was immediately immersed in developing and instituting professionalization changes within the HoPD bureaucracy.<sup>347</sup>

Because Gabrielson was hired to be *the* policing expert, (one of Vollmer’s men, and not just another political appointee),<sup>348</sup> direct political interconnectivity between the two agencies (HoPD and HPC) was beneficial but generally appeared limited to the job at hand; that of maintaining public safety and professionalizing police services. This was largely due to the Commissioners deciding to place complete trust in the ability of Gabrielson’s to institute progressive reforms which were not commonly understood, but whose methods had been well documented and institutionalized by Gabrielson’s ex-boss; August Vollmer. Hence August Vollmer was indirectly responsible for progressing HoPD into one of the most progressive police agencies during the 1930s. Straus notes how in the immediate period following the development and institutionalization of the HoPD-HPC dual accountability model, there was a rise in public approval of police and public safety. Straus writes,

“Within a relatively short time, the initial impact of reorganization had dulled, the [police] Department seemed to be operating efficiently, and the people of Oahu began to enjoy the kinds of police service they were entitled to. Honolulu experienced developments in the police service that were considered definite improvements, but the men in service found that they were in a whole new ball game, with hard and fast rules governing the play.”<sup>349</sup>

Straus also points out how the success of many of these progressive reforms was centered on another of Vollmer’s recommendations; a solid and real investment into education and scholarly study of policing as a science. As was the case with progressive reforms in Berkeley under Vollmer, ongoing research and partnerships with the local University was critical in progressing

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346 (Walker, 2001, p. 185)

347 (Straus, 1978, pp. 35-38)

348 (Boylan & Holmes, 2000, pp. 18-20) (Straus, 1978, pp. 33-36)

349 (Straus, 1978, p. 38)

officers' ability to critically think, communicate, and investigate crime.<sup>350</sup> During one of Gabrielson's first '*status reports*' to the HPC, he pointed to this fact and recommended HoPD officers not be hired unless having a college degree. Straus notes this writing,

"However, Chief Gabrielson's report was optimistic, to say the least, and it seemed to indicate improvements would most certainly be made. It also pointed out that administrators at the University of Hawaii had decided to include a course in Police Administration, and hopes for eventual inclusion of college graduates in the police service were expressed."<sup>351</sup>

Unfortunately, simply having local Universities partner with police managers is not enough of an incentive to change long-standing and institutionalized subcultural attitudes existing within the rank-and-file of a department. In order to ensure education became synonymous with police standards Gabrielson advocated for hiring standards and promotional requirements for officers which mandated college. Straus notes how Gabrielson's recommendations surrounding hiring methods and promotions at HoPD were changed to reflect these new necessary critical thinking skills writing,

"There were other innovations in the service. For the individual seeking a position in the department, education requirements had to be met, as no one was accepted who did not pass 'a high-school education or its equivalent,' and entrance examinations were given, and all applicants carefully screened before being accepted, and if accepted, all such applicants found that they were 'probationary' officers and employees for their first year in service."<sup>352</sup>

It was partially due to Gabrielson's changes that Honolulu resident's perception of police changed from frustration to acceptance. Unfortunately, these requirements were short lived, as manpower availability in Honolulu was affected by Japanese military expansion on December 7<sup>th</sup>, 1941. This begins to answer the question the hypothetical question of, "what happened to HoPD that changed them?"

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350 (Wilson, 1953)

351 (Straus, 1978, pp. 37-38)

352 Ibid (pp.33-34)



Although officials in Hawaii had been preparing for a Japanese military invasion since the 1930s, manpower to staff police services was instantaneously affected by America's entry into WWII.<sup>353</sup> Straus notes how success at HoPD under Gabrielson was short-lived writing due to war time manpower shortages writing,

"By 1940 the department enjoyed public respect, but was to undergo drastic changes in a few short months."<sup>354</sup>

As was the case with policies post 9.11, advances underway towards police accountability and oversight of HoPD suddenly stopped in the days following December 7<sup>th</sup>, 1941. These policy changes coincided with the U.S. military takeover of police operations in Honolulu following the bombings.<sup>355</sup> Also problematic in the days following the attacks, was the fact Gabrielson and the Commission had to operate under martial law (military) rules.<sup>356</sup> One immediate problem with maintaining HoPD's manpower during the war involved the new educational mandates within hiring protocols instituted by Gabrielson, which effectively eliminated the pool of eligible candidates left after the military draft. Especially affected were the police.<sup>357</sup> To combat the issue of not having enough manpower to staff the police force, the HPC and Gabrielson were forced to waive the educational and testing standards, instead utilizing lessor qualified and trained reserve police officers.<sup>358</sup>

Reserve HoPD forces were not only exempted from educational standards, but were rushed into service after only being given basic instructions on policing administrative and field operational duties bypassing police academy training.<sup>359</sup> Although the waivers were meant to be temporary

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353 (Straus, 1978, p. 43)

354 (Baily & Farber, 1995, p. 367)

355 (Straus, 1978, p. 45)

356 Ibid (p.45)

357 Ibid (pp.43-44)

358 Ibid (p.45)

359 Ibid (p.45)

remedies, they became (and remain) institutionalized. The fact the mandated educational policies were still new and were being waived so early into systemic institutionalization meant that the subculture existing prior to Gabrielson's mandate quickly resurfaced and dominated within the ranks of the department. Many of the regularly sworn officers, who had joined HoPD after the Kahahawai-Massie trial when Gabrielson instituted higher educational standards, were compensated by quickly progressing them through the ranks. This caused a divide between the reserve officers and their leaders upon the start of the war as the educated leaders were seen (and referred to) as 'college boys' rather than legitimate police officers. Educational resistance among Hawaiians remains a cultural problem, and an obstacle to secondary educational growth throughout much of the state.

While most educated men were drafted, one example of wartime advancement by educated hires is evident when tracing the police career of HoPD's Vice Lt. John Burns, who would later become Governor Burns. John Burns joined HoPD after Gabrielson had become Chief and implemented educational hiring qualifications. When Burns was not drafted, he was promoted from Vice where his job included organizing Waikiki's brothels and prostitutes into a police controlled institution,<sup>360</sup> to aiding the FBI in recruiting local Japanese counter-intelligence spies to work amongst, monitor, and inform on, the islands Japanese community.<sup>361</sup> As the war drew to an end, most officers (like Burns) who were managers in HoPD began to seek politically elected office (which began a new political interconnectivity warned about by Richardson and Vollmer).<sup>362</sup> Also problematic was how many of the hired reserve officers who had been waived past educational hiring standards and police training, stayed on at HoPD to be grandfathered in

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360 (Boylan & Holmes, 2000, pp. 25-26)

361 Ibid (pp.31-34)

362 Ibid (pp.63-66)

as full time officers.<sup>363</sup> As Straus notes, the educational goals that the HPC and Gabrielson had sought were never reinstituted or realized. Straus writes,

“It will be remembered as long ago as 1932, Chief Gabrielson had advocated a program of higher level study, to be introduced at the University of Hawaii to which police officers might be attracted, but this idea was never carried to fruition.”<sup>364</sup>

Although almost every Chief after Gabrielson has ‘promoted continuing education’ as a goal of the department and spoken of the importance of officer education as a form of professionalization and accountability, no Chief (including the current Chief) has been successful in changing the WWII emergency educational protocols waiving high school requirements.<sup>365</sup> As of 2017, HoPD’s hiring qualifications for police officers are still reflective of the emergency waivers of 1941 and require only a General Education Degree (G.E.D) to become an officer.<sup>366</sup>

Once civilian governance was reinstituted after 1945, Honolulu and its policing bureaucracy began to grow in size and structure. HoPD’s growth and development towards professionalization very much mimicked other departments nationwide. During the professionalization era of policing, HoPD’s pathway to development generally paralleled the path of other police agencies nationwide.<sup>367</sup> One area that the Richardson report noted Honolulu did not suffer from was organized crime.<sup>368</sup> However when Richardson made this observation, he either overlooked or was unaware of HoPD’s interconnectivity with organized prostitution and gambling. Organized criminal activity by police in these two areas is documented as far back as 1920s.<sup>369</sup> According to Dan Boyland and T. Michael Homes, two University of Hawaii History

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363 (Straus, 1978, p. 45)

364 Ibid (p. 55)

365 (Straus, 1978, p. 66)

366 (Honolulu Police Department , 2016 (MQ))

367 (Straus, 1978, p. 46)

368 Organized Crime is defined as a group of individuals whose purpose is to engage in illegal activities designed mainly to increase that groups political power, financial standing, or economic control

369 (Zwonitzer, 2016)

Professors who researched early police activities when looking into Governor John Burns history, police involvement in organized prostitution predates World War II. In their book, *John A. Burns: The Man and His Times*, HoPD and Governor Burns were both involved in police-sanctioned illegal prostitution institutionalization. Boyland and Homes note this writing,

“Although prostitution was technically illegal, the HPD [HoPD] did not enforce the laws against it. Instead, they were charged with the regulation of the world’s oldest profession. Women who came to Hawaii to engage in prostitution came as contract workers, much as the plantation workers of the late nineteenth and early twentieth centuries had come. The contract was written for the protection of the military and civilian populations of Hawaii. Those who came under this contract found that their civil rights were very narrowly defined. Upon arrival from the mainland, prostitutes were required to go directly to their place of employment, they were not allowed to visit Waikiki, they were not allowed to patronize ‘better class’ restaurants, they could not own automobiles or real estate; they were not allowed to have boyfriends or to be seen in public with men; they could not marry service personnel; they could not wire money to the mainland or telephone the mainland without permission from the madam in charge of the house in which they worked; and they were required to be in their houses after 6:00 P.M. except for five days each month.”<sup>370</sup>

HoPD officer’s responsibilities to enforce this illegal institution placed them in modern category of ‘racketeering’, which is considered to be a form of organized crime.<sup>371</sup> HoPD’s involvement with organized prostitution by the late 1930s (under Gabrielson) went as far as to license women and brothels across Honolulu, and again demonstrates how willing HoPD officials have been to use sexual exploitation and violence against women as a method of colonization and control. Again, Boyland and Homes note how Governor Burns, during his time as a HoPD Vice Lt., was placed directly in charge of organizing, licensing, and maintaining prostitution and brothels in Honolulu. They note,

“The basic idea behind the contract was to have the operators of these licensed houses of prostitution regulate themselves. The threat was; if you don’t regulate your girls, you lose your license. And a license to operate a house of prostitution in Hawaii just before and during World War II was a license to print money. Jack Burns’ job was to keep tabs on the operators. If one of the girls complained to him about their loss of civil rights, his reply was, ‘If you want civil rights, go back to the mainland. Come back as a civilian- stay out there, don’t go prostituting, fine. Otherwise we put you in jail.’”<sup>372</sup>

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370 (Boylan & Holmes, 2000, p. 26)

371 (Cornell Law Website Staff, 2016)

372 (Baily & Farber, 1995) (Boylan & Holmes, 2000, p. 26)

By the 1940s HoPD's connection with illegal activities became public fodder as the HPC was fielding numerous complaints of officer's participating in organized extortion of Honolulu's Chinatown community's underground gambling, prostitution, and brothel activities.<sup>373</sup> Chief Gabrielson, who had been made accountable under the terms of *the Police Act*, was alleged to both know and condone the activities of his officer's surrounding their racketeering activities.<sup>374</sup> In 1946 under intense public pressure to investigate police corruption, the HPC met with Gabrielson and accepted his resignation as a way to appease the public. As Straus notes,

"The Police Commission implemented the announcement by stating that the resignation was not in any way connected with the pay-off scandal, and that the resignation was 'voluntary' on Gabrielson's part. As a matter of fact, Gabrielson personally was never implicated in the scandal by anyone. He departed Honolulu, and later became associated with the government in occupied Japan as a police officer. He was subsequently indicted by the Oahu Grand Jury on a number of charges indicative of misconduct in office and appropriation of governmental property. He returned from his post in Japan, denied all allegations, and upon trial on some of the charges, he was found not guilty."<sup>375</sup>

This historical cover-up appears to have been repeated by the HPC with Chief Kealoha in 2017, raising the question on whether historical lessons are attended to in Honolulu.<sup>376</sup> The fact the first HoPD Chief's hired under *the Police Act* was eventually perceived and tried for participating in Organized Crime, places a new lens on how the current HPC has been perceived by the public in dealing with Chief Kealoha. Given the parallels between the two where the Chief is alleged to be 'racketeering'<sup>377</sup> and the HPC's willingness to spend \$250,000 to "move on" without holding Kealoha accountable,<sup>378</sup> appears problematic. Although the HPC was developed specifically to stop police from being allowed to organize into a criminal enterprise, organized crime in (and around) HoPD activity has not ceased and has continued under the

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373 (Straus, 1978, pp. 46-47)

374 Ibid (pp. 46-47, 50)

375 (Straus, 1978, p. 50)

376 (Kawano, 2017 (KPO))

377 (Kawano, 2016 (RACK))

378 (Kawano, 2017 (KPO))

watch of the HPC. If anything, organized misconduct has grown within the ranks of HoPD under the umbrella of cover provided by the union, the HPC, and department's executives.

## **2.6 The Rise of Organized Crime, SHOPO, and the Restructuring of the HPC**

Proof of Organized Crime's influence on (and in) HoPDs ranks growing between the 1950s and the 1970s has been well documented, and has direct links to why there is a subcultural norm within HoPD characterized by media as being a 'culture of corruption' allowing police to feel autonomous from policies and laws governing how they use their power. This begins to explain why having policies overseeing officers use-of-force is not an adequate safeguard in ensuring the public's safety from them. According to Straus there were two contributing variables which made policing organized crime in the department and across Honolulu problematic. First was organized crime members were able to recruit and lure police into supporting and conspiring to promote the group's efforts;<sup>379</sup> secondly HoPD officers who resisted crime bosses became targets of violence or were subjected to false allegations of brutality by organized crime members.<sup>380</sup> Because of these variables, organized crime grew across Honolulu to such levels as to allow one organization to be given the nickname '*The Syndicate*' by local residents who were both aware, and acknowledged, the ongoing criminal connection between police and organized crime as early as the 1950s.<sup>381</sup> HoPD officers would become synonymously linked with '*The Syndicate*', at one point even being accused by the FBI and politicians of leading the organization.<sup>382</sup>

By 1978, federal investigations had connected the Godfather of '*The Syndicate*' with HoPD, largely due to him having served as a HoPD Vice officer prior to taking over the

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379 (Straus, 1978, pp. 59-60)

380 Ibid (p. 60)

381 (Straus, 1978, pp. 93-95)

382 (Dooley J. , 2006 (OCHPD))

organization.<sup>383</sup> James Rodenhurst, Herbery Naone and Larry Mehau were all HoPD officers who were accused of having links to organized crime, but whose guilt could never be proven in federal court.<sup>384</sup> All three men became important political figures interlinking suspected criminal enterprises to government and police bureaucracies. According to Honolulu journalist and historian James Dooley, in his book, *Sunny Skies, Shady Characters: Cops, Killers, and Corruption in the Aloha State*, the rise of labor unions, and expansion of Organized Crime eventually propelled Larry Mehau into becoming the godfather of ‘The Syndicate.’ Dooley notes how Mehau’s vice connections helped build political bridges with other HoPD vice officials who had obtained political offices (i.e. Governor John Burns) writing,

“Mehau himself was a former HPD [HoPD] officer who maintained close ties to the department throughout his life. While on the force, Meahu made a name for himself as a no-nonsense cop who specialized in vice busts, particularly gambling offenses, and was an accomplished martial arts expert. And he made important friends while working as a cop, including Dan Inouye and future governors John Burn [formally HoPD Vice Captain] and George Ariyoshi. Mehau once testified in court that he had worked on Burns’ political campaigns, describing his activities as ‘just helping.’ Police officials had ordered officers ‘not to be involved in politics,’ Mehau said, but he and his friends did it anyway. They ‘used to do a lot of background things, tear down old buildings, make signs, things like that. That’s when we were on the vice squad, we did a lot of that,’ he said.”<sup>385</sup>

Dooley goes on to document how in 1958 Mehau’s activities on the vice squad finally landed him and several others working within HoPD vice squad in hot water for a practice of using evidence as payoffs to criminal informants. Dooley writes how Mehau made this questionable practice standard operating procedure within HoPD writing,

“In 1958, Mehau’s work in vice landed him in public trouble. He was suspended for 8 days and demoted to patrolman for using what police officials termed ‘irregular but not illegal procedures.’ It was called the ‘sweetening case’ because vice officers were paying informants’ cash to come up with tips about illegal activities. The money came from a police evidence fund and was used to ‘induce informants to bring cases in,’ a police investigation found. The practice was known as ‘sweetening the bird,’ and Mehau told superiors that he had come up with the idea in 1954, according to police records. Eleven other officers in the gambling detail were involved, but only Mehau was both suspended and demoted.”<sup>386</sup>

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383 (Dooley J. , 2015, p. 194)

384 (Cooper & Daws, 1985, pp. 254-257) (Dooley J. , 2006 (OCHPD))

385 (Dooley J. , 2015, pp. 189-190)

386 Ibid (p.191)

Despite there being evidence and a finding against Mehau by internal affairs of policy violations and criminal brutality, the punitive action never took place due to political reasons. Dooley writes,

"It turned out that Mehau's demotion never actually took place. Tarbell said later that the plan was to demote him for six months and then restore him to his sergeant's rank, but such a move was impossible under civil service rules. So the demotion was cancelled."<sup>387</sup>

Contributing to the problem of Organized Crimes influence within the ranks of HoPD were two major changes surrounding the HPC's ability to act on police illegal activity and serve as an external accountability tool. First was the aforementioned rise of police unions' nationwide which arrived in Honolulu in 1971 with the founding of SHOPO (State of Hawaii Organization of Police Officers). The second involved Honolulu County charter amendments made in 1972 which directly altered both the HPC's ability to directly oversee individual officers and the HoPD Chief, and which were proposed and lobbied for by SHOPO. These two charter shifts had the effect of de-authorizing all external check-and-balance mechanisms over police conduct and de-powering the ability of the HPC to act as an oversight tool.

As was previously mentioned, civil service laws protected misconduct by HoPD officers dating back to Mehau in 1958, however by 1970 many Honolulu police officers felt under-attack by changing social attitudes which mirrored national sentiment linking police with corrupted governmental practices.<sup>388</sup> This resulted in an era of police unionization coinciding with the rise in police union popularity nationwide.<sup>389</sup> In Honolulu, police frustration leading up to the formation of the State of Hawaii Organization of Police Officers (SHOPO) can be traced back to the ongoing manpower and pay issues beginning in WWII,<sup>390</sup> and which were brought to a boil

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387 (Dooley J. , 2015, p. 182)

388 (Walker, 2001, p. 28)

389 Ibid (p. 28)

390 (Straus, 1978, pp. 46, 61, 65-66)



by a series of killings between 1963 to 1965 which took the lives of five officers (HoPD Officers Abraham Mahiko, Andrew Morales, Bradley Kaanaana; Reserve Officer Earnest Linderman; and Lieutenant Benedict Eleniki.)<sup>391</sup> It was primarily these two factors which help police justify the need for unionization across the state of Hawaii.

The current size of SHOPO is largely to the geographic remoteness of the state, and low number of county employed police officers statewide. Together these circumstances forced a single police union to be organized representing all county police officers statewide.<sup>392</sup> SHOPO was legislatively authorized to begin representing rank-and-file officers in labor issues beginning in 1971.<sup>393</sup> That same year the Honolulu County Charter Commission, a bureaucracy who meets once a decade to review the composition and workings of county governmental institutions across Honolulu, met to review (amongst other important issues) employment conditions of the HoPD Chief and accountability systems of HoPD.

Charter Commission recommendations were to be voted upon during the elections of November (1972), and had been lobbied by SHOPO to change oversight of police rank-and-file complaints. The Charter Commission, having received SHOPO testimony together with public objections against reduced external accountability, turned to Honolulu's Corporate Counsel (a lawyer that works for the Mayor) to provide legal direction to the Charter Commission. According to Straus,

"To clarify once and for all the separation of authority of the Commission and the Chief of Police, a legal opinion was sought. That opinion, rendered by the Corporation Counsel of the city, cleared up any possible misunderstanding of the terms of the Charter – it held that the Chief of Police is charged with the responsibility of the administration of the Department, and the Commission, 'except for purposes of inquiry, or as otherwise provided in this Charter, shall not interfere in any way with the administrative affairs of the Department.' The present Commission, now enlarged to seven members, still retains certain authority granted it under the terms of the Charter, as revised. It also presently acts in receiving complaints against police officers registered by members of the public. There are two non-police employees attached to the Commission's staff, who investigate all such complaints, forwarding the results of such investigations to the Commission. This removes a long-standing public complaint, that the police investigate

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391 (Straus, 1978, pp. 77-79)

392 State police officers in Hawaii are represented by a different labor union.

393 (SHOPO website staff, 2016)

themselves and ‘white-washing’ officers complained about. The Commission deliberates on valid complaints and communicates its decisions to the Chief of Police, who has the responsibility of determining the nature and extent of any disciplinary actions to be invoked against an offending officer.”<sup>394</sup>

Unbeknown to Charter Commissioners of the day, this reorganization would ultimately lead to HoPD’s current accountability crises.<sup>395</sup> While the shifts away from civilian-led external accountability seemed logical at the time, they have (over time) proven problematic. The 1972 Charter revisions placed sole accountability review into the hands of the HoPD Chief, with no external review. The 1972 changes also placed a legal standard on the HPC’s ability to terminate the Chief. In essence, this protected the Chief from external review or termination while simultaneously allowing the Chief all authority to make decisions on discipline and conduct of all officers, which was not subject to external review or scrutiny. This left Honolulu residents with a single accountability mechanism for police conduct, the HoPD Chief. These changes in the ability of the HPC to oversee both the Chief, and act as an officer safeguard repositioned the power and authority of the Commission. No longer would the HPC be able to recommend action or hold the Police Chief accountable should they disregard the findings or recommendations of the HPC. Ultimately, it was the 1972 repositioning of police away from civilian-led oversight based on the recommendations of the police union which has allowed all accountability tools to be situated internally and thus became one of the focal areas I concentrated on when attempting to reform oversight tools in 2016.

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394 (Straus, 1978, p. 85)

395 (Civil Beat Editorial Staff, 2016 (CPR))

## **CHAPTER 3**

### **GENDER AND ABILITY-BASED POLICE VIOLENCE INCREASES AT HoPD**

#### **3.1 Roadmap to the Policing Problem in Honolulu and a Caveat About My Measurement**

This section of my research explores numerous intersectional areas involving officers' training, violence against women and violence against the mentally ill. As was described in chapter one, before understanding where intersectional spaces address specific problematic areas involving interlocking systems of oppression (gender and ability), attention must be paid to how there is an overall colonization taking place within policing policy. For this reason, I begin with an exploration of how training shifts of police made to prepare for APEC were directly tied to a greater colonial project. These training shifts lead to a discussion of how military and police mindsets have become linked, and allow for an exploration of how gender-based private and public violence are interconnected given militarization training of police. Once it is clear how private and public gender-based police violence is interconnected, I will lay out the current problems facing HoPD relating to both officer-involved gender and ability-based violence. These discussions will take place within a larger framework which demonstrates how training shifts meant to further a larger colonialization have both altered police perceptions and thinking while simultaneously directly contributing to why gender and ability based violence is rising.

One problematic issue I must address before launching into an analysis involving increases in either gender or disability police-based violence is how and why a lack of statistical data surrounds both subjects. Although I sought statistical data on police-based violence prior to 2008, these records were not routinely kept by HoPD, the Honolulu City Officials, or any activists. Typical of police nationwide, police do not like to keep track of officer-involved

violence unless mandated. Instead, advocates and researchers have had to dig through stacks of police reports individually to detect these events, and then only after officially requesting these documents via court subpoena through the freedom of information act. Unfortunately, after 9.11, these records have been kept even more secure by police who often cite ‘national security’ as the reason for not releasing records surrounding official requests. Although I requested the cooperation of HoPD in tracing how many of these violent events were documented within old reports, the department refused my requests and failed to cooperate. Additionally, city and county officials refused to allow me any official permission from which to compel these documents from police officials. Instead, I have had to make my assessment based on statistical data which sought to measure public satisfaction with police services taken before APEC, directly after APEC, and then after it was reported the Chief was being investigated by the FBI. Only by measuring the differences between these historic records together with actual accounts beginning in 2010 can a recompilation be constructed which attempts to demonstrate how prevalent and noticeable of an increase there was between former police-based violence directed at women and the mentally ill, to those which occurred after training shifts made by Chief Kealoha during and after APEC.

In 1996, a period wherein police were focusing on repairing community relations from the 1970’s and 1980’s under the COPS programs nationwide, a Honolulu Star Advertiser poll was conducted and found that 18% of respondents felt that Honolulu police did an excellent job, 53% good, 17% fair, 3% poor, and 8% not sure (**See Appendix E**). These numbers change drastically after policy shifts by police began in preparation for the APEC summit. Between 2001 and 2010, no research on HoPD was conducted or allowed by its police chiefs, nor was information available from police who often cited “security concerns” as the reason for denying any access to

the media.<sup>396</sup> HoPD have also begun to use economic methods to discourage informational releases, which again is counter to public transparency and inclusivity.<sup>397</sup>

Following the militarization of Honolulu police from 2008-2011 designed to prepare for the APEC summit, unprovoked<sup>398</sup> violent attacks on citizens by police (especially women in Hawaii) appeared to increase, especially during the period from 2011-2014. This period was also when HoPD managers, Honolulu Prosecutors, and Police Union (SHOPO) Officials defended a departmental policy which allowed police to engage in sex with prostitutes as a method of establishing legal probable cause in prostitution cases.<sup>399</sup> It was only after community (and national) pressure rose to the level of open ridicule of HoPD officials on their stance, that county managers convinced police and prosecutorial officials to reverse their position, and abandon the policy.<sup>400</sup> This period was also when high-profile events occurred like HoPD Officer Kramer Aoki who was accused of sexually fondling a teenage girl during a traffic stop, only to have the case dismissed by a local judge on the legal technicality that the officer's conduct was allowed because the juvenile was not "technically in his custody."<sup>401</sup> This incident along with many others resulted in a poll being conducted by the Ward Research Center (commissioned by Hawaii News Now) in 2015 that focused on HoPD's credibility with the public. When asked about trust in HoPD investigating themselves in homicide or brutality cases (a question of police credibility)

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<sup>396</sup> (Mangieri, 2014 (CPR))

<sup>397</sup> Ibid

<sup>398</sup> This legal standard of what conduct reaches the levels of provocation differs for police than for citizens. Police are trained on use-of-force techniques and policy applications involving violence. Unprovocative behavior by citizens towards police must reach a higher standard than for citizens against each other.

<sup>399</sup> (Kelleher, 2015 (SWP))

<sup>400</sup> (Dockterman, 2014) (Hathaway, 2014) (Steogerwald, 2014)

<sup>401</sup> (Grube, 2015 (HELM))

the polls showed that there was a 52% approval/ 46% disapproval rating as of January (2015) (See **Appendix F**).<sup>402</sup>

With media focus being given to police misconduct after January 2015, gender related incidents like HoPD Sergeant Anson Kimura's shooting of a waitress in a bar while he was drunk and partying with other officers,<sup>403</sup> Officer Nicholas Masagatani indictment on multiple counts of sexual assault,<sup>404</sup> Officers Alan Ahn, Taase Faumi, and Marc Brandt's unlawful beating of their family members,<sup>405</sup> Officer Bobby Harrison's unlawful arrest and beating of two lesbians who were kissing in a public market,<sup>406</sup> and Officer Maulia Labarre extorting and bribing a prostitute for sex,<sup>407</sup> have helped progress reform efforts and shape public opinion of Honolulu police officials. Evidence of this is apparent when reviewing polls taken a year and a half after the January (2015) survey.

When citizens were polled again in June/July (2016) and asked if they had confidence in HoPD (again a question of police services and their credibility), the responses had changed to: 8% very strong/ 41% strong/ 39% neutral/ 8% little/ 7% very little/ and 1% unknown.<sup>408</sup> Even accounting for the variable difference in questioning, the differences in polling populations and numbers, and the fact that the poll was not independently conducted by this research study, the results are evident that public support had fallen over time (1996-2016) by as much as 23% (71%-48%). During the seventeen (17) month period, public support for police dropped (as much as) 4% (52%-48%), while public confidence in the HoPD Chief (Louis Keahola - the focus of

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<sup>402</sup> (Kubota, 2015)

<sup>403</sup> (Grube, 2015 (HELM))

<sup>404</sup> Ibid

<sup>405</sup> (Grube, 2015 (HELM)) (Kerr, 2015 (TMC)) (Web Staff Khon2, 2015 (FFS))

<sup>406</sup> (Gajanan, 2015)

<sup>407</sup> (Kawano, 2016 (UHV))

<sup>408</sup> (Nakaso, 2016)

investigative journalists, legislators, federal prosecutors, activist, and researchers) had moved from 35% approval / 30% disapproval /24% unknown in January 2015<sup>409</sup> to 39% yes/ 48% no/ 13% unknown in June/July 2016.<sup>410</sup> Although a 4% rise in popularity, the fact that the unknown dropped significantly while the disapproval rating rose 18%, is significant. This 4% drop in overall police approval and 18% rise in negative perception of the police chief occurred during the same period that my research began assessing police mismanagement and overt systemic police corruption.

After several peer review requests when presenting my research to demonstrate some evidence of increased violence by police after APEC, and having to explain why it was impossible to track exact statistical data involving police-based violence prior to my investigation, I chose to include these statistics along with the explanation of how police in Hawaii do not maintain statistical data on the exact numbers of incidents involving police violent actions, nor are they cooperative in disclosing any documents which would detail these events. Although these numbers can be disputed as to how they prove or disprove the exact rise or fall of violent encounters between women or the mentally ill and police, what it does reflect is the public shift towards distrusting police and Chief Kealoha. Although not statistically evident, the news reports and articles written during my research are demonstrative of a publicly perceived rise in police-based violence.

### **3.2 HoPD Training and Strategy Shifts Preparing for APEC: Modern Colonialization**

As previously mentioned during my theoretical discussion of intersectional theory, one of the main reasons why intersectional theory is a powerful tool, is that it exposes how seemingly

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<sup>409</sup> (Kubota, 2015)

<sup>410</sup> (Nakaso, 2016)

innocuous policy or guidelines are often methods of colonization in disguise. When assessing how HoPD prepared for the Asia-Pacific Economic Cooperative (APEC) summit in 2011, what on its face appears as a standard preparation for a global summit, reveals itself to be an extension of an ongoing colonial project designed to ensure military control over both the Hawaiian Islands and the populous.

Although having a background in law enforcement, when I moved to Honolulu in 2008 I was unaware of the vast systemic differences existing within the state's accountability mechanisms overseeing police and how interconnected they were to military colonialism. As previously mentioned, some of these unique qualities were caused by the geographic make-up of the state; while other differences appear to be carry-over stemming from Hawaii's troubled colonial history.<sup>411</sup> Both of these appear to have contributed to escalating community concerns over governmental legitimacy during the security build-up in preparation for the APEC summit in 2011, and which led to 1) a change in HoPD leadership, 2) a shift towards militarized training and 3) proof of continued colonialization through policing policy.<sup>412</sup>

From 2008 until 2010 Honolulu residents' concerns over police legitimacy were being influenced by both national and local media reports of violent protesters clashing with militarized police over economic inequality in several major cities.<sup>413</sup> Honolulu county (and Hawaii State) leaders at that time were also preparing for APEC which required them to begin

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411 Differences in Hawaiian jurisdictional composition of state, county, municipality's governmental agencies are largely due to the fact that certain islands natural geographic boundaries comprise the jurisdictional boundaries for county governmental agencies. There are no municipal governmental agencies within the State of Hawaii, leaving correctional and policing services to have unique local- county-state power matrix's, that involve "home rule" issues of authority, and absent systemic agencies. The troubled history of how Hawaii became a state has been acknowledged through Presidential apologies that pointed to an unlawful seizure of power through an American backed coup, and a continued policy that directly contributed to "the long-range economic and social changes in Hawaii over the nineteenth and early twentieth centuries have been devastating to the population and to the health and well-being of the Hawaiian people." (Public Law 103-150, 1993)

412 (Grube N. , 2015 (NB)) (Grube N. , 2013 (WO))

413 (Ariosto, 2011) (Associated Press Staff, 2011) (PBS Newsdesk, 2011)



addressing security concerns and “*clean-up*” the city.<sup>414</sup> Heavily influencing these plans and concerns were Occupy Honolulu protestors<sup>415</sup> and the growing numbers of homeless living in Waikiki and downtown Honolulu.<sup>416</sup>

In August (2010) Governor Linda Lingle made an announcement to Honolulu residents notifying them how security plans for the APEC summit had begun, and that HoPD officers would begin training and coordinating with military personnel.<sup>417</sup> This announcement marked a shift in the community-based training HoPD used to portray ‘The aloha image’, and manor in which they interpreted their law-enforcement mission. To accomplish this shift, Lingle appointed Major General Robert Lee (Head of State Department of Defense) to oversee all security preparations for the upcoming economic summit. This appointment indirectly placed him in charge of police services, which was necessary for HoPD to be assimilated into the national security collective and begin receiving federal funds necessary to upgrade police equipment and training.<sup>418</sup> By September (2010) Lingle’s efforts to gain federal support were realized, resulting in her announcing how the Department of Homeland Security had designated the conference as a, “National Security special event that will be coordinated by the Secret Service.”<sup>419</sup> According to media reports,

“The city has allocated \$28 million over two years for APEC-related costs, about \$22 million of that for the Honolulu Police Department. Lingle has not disclosed how much the state has budgeted for APEC expenses. HPD Maj. Clayton Kau said police have identified special training and equipment it might need “to address crowd control (illegal protests), venue security and dignitary protection.” The police also will buy bicycles, protective equipment and uniforms, as well as pay for specialized training and the rental of vans, Kau said. The city plans to send a delegation of

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414 (Nakaso, 2011 (CCU))

415 (Ariosto, 2011) (PBS Newsdesk, 2011)

416 (Nakaso, 2011 (APEC)) (Unknown Staff, 2011(APEC1))

417 Ibid

418 Ibid

419 (Kakesako, 2010)

police and other emergency management personnel to Yokohama, Japan, to observe the security procedures and operations Japanese officials will use Nov. 13-14 at this year's APEC meetings."<sup>420</sup>

This overt militarization of HoPD was justified as being necessary due to, 1) the history of protesters targeting APEC gatherings, 2) the rise of social movements focused on police brutality, and 3) a growing movement focused on economic disparity known as, "*the Occupy movement*."<sup>421</sup>

Local police agencies nationwide began to confront Occupy protestors with S.W.A.T. (militarized) style response teams, which became more violent. Larger Occupy gatherings were organized nationwide which also videoed acts of police brutality towards non-violent Occupy disruptions including the use of chemical agents, fire crews' spraying water, and officers using clubs and rubber bullets.<sup>422</sup> These incidents were important, as the Occupy protests occurring nationwide were used by Governor Lingle and APEC security officials as a factor in how they were planning and what specific security training was to be given to HoPD officers. Occupy related social groups (i.e. World Can't Wait, and Call to Action) in turn monitored how APEC security officials were choosing to escalate militarized control-based techniques and how HoPD officers were receiving military style intelligence gathering training as part of their new tactical training. These groups were also attempting to alert residents as to how police brutality was standard protocol when dealing with protestors and was in fact part of an immersion of police into a military mindset. One article during that period noted,

"All this is not being lost on the police, who are openly boasting of monitoring organizing meetings and actions. Many are new to protest, and have not personally witnessed police brutality against protesters, so they don't recognize such illegal blatant violations. Police regularly approach activists and greet them by name, asking them for private personal information and about upcoming plans. Consequently, it is relatively easy for the police to gather information on protesters. A new "Civil Affairs" police unit sporting aloha shirts is passing out calling cards to protesters which promise to "protect First Amendment Rights to Protest" and are stamped with "2011 APEC USA." Images of police brutality beamed from New York, Minneapolis, or Philadelphia have long seemed remote, and we

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420 (Kakesako, 2010)

421 Ibid

422 (Friedersdorf, 2012) (Sankin, 2012)

often hear people say "at least we don't have THOSE kinds of protesters here," blaming the protesters rather than the police. Consequently, when police show up at organizing meetings and openly listen in on planning meetings, few people object. When the police announce that the surveillance cameras will be used to identify protesters, few voices of concern are raised. When security forces boast that they are closely monitoring "outside protesters" who might arrive in Hawai'i, too many people accept it."<sup>423</sup>

One difference which alarmed APEC security planners between Hawaiian Occupy protestors and other Occupy movements taking place elsewhere in the United States was how the Honolulu movement included a unique indigenous native Hawaiian component absent in other Occupy groups. This native Hawaiian element gave Occupy Honolulu both a moral high ground and a wider history of oppression to draw international media attention towards if they were to amass and confront police or federal officials during APEC.<sup>424</sup> This worried APEC and HoPD security advisors as they feared the economic summit would turn into a Dakota Pipeline,<sup>425</sup> Mauna Kea,<sup>426</sup> or Haleakala<sup>427</sup> type situation between police and indigenous protest groups, or worse yet a Seattle WTO<sup>428</sup> or APEC South Korean<sup>429</sup> style protest and riot.

The De-Occupy Honolulu group was also troubling to national homeland security leaders after it was made clear to them how many indigenous Hawaiians still seek to bring about a total decolonization (or secession) from the United States. The idea of Hawaii being lost as a state and no longer being host to over 21 military bases was (is) a direct threat to national security and a greater continued colonialization project.<sup>430</sup> Although decolonization of systems of oppression is a theoretical concept in intersectional theory, it is a real political and policy issue facing police and lawmakers in Hawaii stemming from a growing restless indigenous population who seem

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423 (Call to Action, 2011)

424 (Thompson, 2013)

425 (Michaud & Keith, 2016)

426 (Kai-Hwa Wang, 2015)

427 (Gutierrez, 2015 (HPHT))

428 (Vidal, 1999)

429 (Lim, 2005)

430 (White, 2013 (HDO))

themselves as victims of oppressive American federal governmental policies.<sup>431</sup> Decolonization though secession continues to be an active community topic within the indigenous Hawaiian community throughout the state of Hawaii. There are simultaneous hopes and fears of real success by some members of the indigenous Hawaiian population of seceding or (somehow) reverting to an independent monarchal government.<sup>432</sup> This independence (secession) strategy was also situated outside of the de-occupy movement within a larger indigenous Hawaiian sovereignty movement, and has resulted in a division of philosophies and tactics among activist leaders over how best to deal with both the U.S. government and haoles who inhabit the islands.<sup>433</sup> Indigenous secessionists are currently a minority amongst the larger body of indigenous Hawaiians seeking national recognition from the U.S. federal government, but who have continued to grow in numbers and popularity fueled by images of militarized police using violence to protect race-based oppressive law and policy.<sup>434</sup> Indigenous Hawaiians have showed a wiliness to unify and use an ideology of being “*under siege*”<sup>435</sup> by U.S federal, state, and county governmental agents and policies as a justification to act, which was not going to be tolerated by APEC security officials when President Obama and 21 other world leaders were confined to the same island.

Examples of Hawaiians uniting against the U.S government were not a distant experience, as evidence when in 2008 Governor Lingle demanded autonomous state usage of ceded Hawaiian lands, which resulted in mass protests.<sup>436</sup> The 2008 land issue became (and remains) so

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431 (Brown, 2015)

432 (Tolan, 2016)

433 (Brown, 2015)

434 (Gutierrez, 2011 (PRP))

435 (Star Bulletin Staff, 2009 (NHP))

436 Ibid

controversial and contentious that the U.S. Supreme Court became involved,<sup>437</sup> leading to HoPD and APEC security officials to fear the summit would become a catalyst for indigenous activist' to use the summit to bring their grievances to an international stage. According to local media reports in 2009 (during APEC security planning) documenting the size and scope of civic protest by indigenous Hawaiians against Lingle's policies,

"At 5 a.m. today, native Hawaiians who say their rights are under siege gathered at the state Capitol, churches and other places on the neighbor islands and the mainland to protest the U.S. Supreme Court's involvement in the ceded-lands controversy.... The protest at the state Capitol was organized by Ilio Ulaokalani Coalition and was attended by more than 200 people from halaus, the University of Hawaii, students from Hawaiian immersion schools, and other Hawaiian-rights supporters. Wayne Panoke, one of the organizers, said the purpose of the rally "was to bring public awareness" to what was going on as state lawmakers debate the ceded-lands sale moratorium."<sup>438</sup>

Unfortunately, the ruling by the U.S. Supreme court did not settle the ongoing dispute, instead polarizing both sides.<sup>439</sup> The Supreme Court ruling also created a heightened fear amongst Hawaiians surrounding whether there would be more governmental overreach, ultimately re-energized Indigenous sovereignty aspirations. This in turn further threatening APEC security planners and HoPD managers causing them to take seriously the idea of Hawaiian sovereignty being a national and homeland security threat. Between 2009 and 2010 APEC security planners began to point to the fact of how native Hawaiian protests had begun to expand their protests to areas outside of the land use issue, but which were focused on the governor and state governmental policies.<sup>440</sup>

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437 (Kim, 2009)

438 (Star Bulletin Staff, 2009 (NHP))

439 (Kim, 2009)

440 (Nakaso & Viotti, 2003) (Sample, 2010)



**Figure 1: Hawaiian Protests against land takeover during Lingle's Administration leading up to APEC**

Both the De-occupy connection to indigenous sovereignty, and its opposition of economic policy associated with globalized capitalism made the De-Occupy Honolulu a national security priority during APEC preparation. Evidence of how serious governmental officials considered this threat could be seen in reports prior to APEC wherein both Gov. Lingle and Gen. Lee noted how they were not taking the summit's security lightly and had ensured coordinated policing efforts with local military units to ensure public order.<sup>441</sup> APEC security officials began using local media to justify police militarized tactics by pointing to civil disorder and riots which had occurred during other economic summits protests in an effort to build a public fear of social disorder. One Honolulu newspaper reported how policing strategies at HoPD had been changed specifically to address potential disruptions to the APEC summit noting,

"More than 600 protesters were arrested in June at the G-20 summit in Toronto, where clashes with police led to burning squad cars and shattered store windows — a situation local authorities are already working to avoid at the Asia-Pacific Economic Cooperation conference here next year."<sup>442</sup>

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441 (Nakaso & Viotti, 2003)

442 Ibid

Initially in 2008, media had characterized HoPD (led by then Chief Boisse Correa) as preparing for APEC by using lessons learned elsewhere by police managers to develop new community-policing based reactions to protestors. These reports noted how it was Correa's strategy to maintain an Aloha spirit and embrace these less-confrontational policing tactics. These early strategies had been noted as planning to use bicycles and "Aloha" shirts as crowd control methods rather than to militarize officers.<sup>443</sup> According to reports:

"The Honolulu Police Commission recently got a briefing from members of HPD's Special Field Operations Bureau/APEC Planning Group on their trip to the June G-20 summit in Toronto. The presentation was held behind closed doors due to security reasons. They also will attend this fall's APEC conference in Yokohama, Japan. Asked what HPD officials learned in Toronto, police Maj. Clayton Kau said: 'We learned that the law enforcement agencies involved in the G-20 conference did an excellent job planning for the event. We learned how much time and resources are needed to plan for a successful event.' HPD has begun to identify special training and equipment it might need to employ "to address crowd control (illegal protests), venue security and dignitary protection," Kau said. HPD will need to purchase bicycles, protective equipment and uniforms, as well as pay for specialized training and the rental of vans, he said."<sup>444</sup>

Prior to being ousted as HoPD Chief, Correa had arranged for HoPD Assistant Chief Bryan Wauke to take over the Special Field Operations Bureau, effectively placed him in charge of coordinating HoPD's participation in APEC security,<sup>445</sup> and receive special training in community-policing counter protest training. Chief Wauke and his aid, Major Robby Robinson (APEC Crowd Control,) received over \$5000 in specialized community-based training designed to allow them to provide APEC security using these alternative community-policing style crowd control tactics. Many in Honolulu felt reassured by this ideology and planning thinking HoPD would handle crowd control differently from other economic summits, wherein militarized policing tactics often resulted in riots and chaos. This community based training included

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443 (Kakesako, 2010) (Pang G. Y., 2010 (ASP))

444 (Pang G. Y., 2010 (ASP))

445 (Hawaii Free Press, 2011)

traveling to Japan to observe APEC security planning there, before returning to aid In APEC Honolulu coordination.<sup>446</sup>



**Figure 2: Honolulu Police in Aloha Shirts in front of the Royal Palace, prior to APEC (Chief Correa's plan).**

Unfortunately, the community based strategy of HoPD Chief Correa did not fit with the plans being developed on the state level by Lingle's cabinet, APEC security coordinators, or homeland security officials given the potential for an indigenous uprising. This was evident when Governor Lingle began state-level policy shifts to support police militarization in 2009, which included a coordinated effort taking place behind the scenes to replace HoPD Chief Correa with a different police leader whose philosophy was more in line with national security and APEC officials who advocated for a traditional militarized security approach.

In August 2009, with support shifted away from Chief Correa, the Honolulu Police Commission was asked to remove and replace him as HoPD Chief. Honolulu Mayor Mufi Hannemann and the Honolulu Police Commission (the civilian-led body that hires/fires the police chief), led by Police Commissioner Ron Taketa ousted Chief Correa despite having just rated his job

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446 (Hawaii Free Press, 2011)



evaluation as *exceeding expectations* in the weeks prior.<sup>447</sup> A national search for a new police chief was held briefly before announcing a pool of four local candidates had been chosen as finalists to replace Correa as HoPD Chief. Although several applicants applied for the Honolulu Police Chief position, which included several highly qualified mainland police chiefs, Mayor Hannemann and the SHOPO president lobbied Ron Taketa to overlook more qualified applicants and instead appoint a young HoPD Captain with local roots named Louis Kealoha.<sup>448</sup> Although some police commissioners noted how they were concerned Kealoha was being chosen over several more qualified candidates as a political move, and was being promoted from Captain to Chief (thereby bypassing several critical managerial ranks), the fact Kealoha was local Hawaiian and may quell indigenous protest groups willingness to see police as colonial puppets influenced the final outcome.

What was more confusing to Honolulu residents was how the HPC had just rated Chief Correa with an excellent job performance in the previous weeks, then made a one-hundred and eighty degree turn and gave no justification for his ousting and replacement.<sup>449</sup> Statements by Chief Correa to the media demonstrated he was clearly being forced into retirement from behind the scenes, leaving very few Honolulu residents to understand why.<sup>450</sup> Correa's dismissal and Captain Kealoha's appointment was immediately met with objections by some Honolulu county councilmembers who feared Kealoha's appointment was political, and that his lack of experience or qualifications for command of HoPD during the security buildup to APEC would ultimately be problematic.<sup>451</sup> According to reports,

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447 (Sugimoto, 2009 (COC))

448 (Kerr, 2009 (KEC))

449 (Sugimoto, 2009 (COC))

450 Ibid

451 (Vorsino, 2009 (KNC))

"Councilman Charles Djou said the selection process needs to be reformed. At the City Council meeting yesterday, he said, "Whatever the decision may be on the selection on the next chief, it is clear to me that how this chief was selected was mishandled."<sup>452</sup>

On May 29<sup>th</sup>, 2011 (after a year of specialized community police based training, and only 180 days prior to the APEC summit) It was announced by newly appointed Chief Kealoha that Chief Correa's APEC team of Assistant Chief Wauke, Major Robinson, and Captain Nyle Dolera were all being replaced, removed, or retired (inexplicably).<sup>453</sup> Chief Kealoha made no public statements as to why these shifts occurred, which again alarmed both Honolulu residents and neighboring county police chiefs whose personnel were also preparing and training for APEC.<sup>454</sup> Kealoha's shift away from community policing and towards traditional military style approaches to security also alarmed many advocacy groups and journalists, who began to focus on what exactly these changes meant.<sup>455</sup>

Chief Kealoha shifts included appointing assistant Chief Greg Lefcourt,<sup>456</sup> who was touted by conservative local media as being qualified due to his 30 years of special weapons and tactics (S.W.A.T) training,<sup>457</sup> and Major Bobby Green whose credentials were limited to him having served 20 years of patrol duty.<sup>458</sup> Lefcourt and Green were to take over for the command staff he had relieved of duty.<sup>459</sup> Chief Lefcourt was ultimately placed in charge of the Special Fields Operation Bureau, including overall HoPD involvement in APEC security. Major Green's duties

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452 (Vorsino, 2009 (KNC))

453 (Hawaii Free Press, 2011)

454 Ibid

455 (Levine, 2011 (GUW)) (Levine, 2011 (BBC)) (MaAvoy, 2011(BCN))

456 (Hawaii Free Press, 2011)

457 Major Greg Lefcourt was faculty at the University of Hawaii at West Oahu's public administration program (where I was also employed). Listed within the: "UNIVERSITY OF HAWAII WEST O'AHU PROVISIONAL TO ESTABLISHED PROGRAM PROPOSAL CERTIFICATE IN DISASTER PREPAREDNESS AND EMERGENCY MANAGEMENT," Major Lefcourt's qualifications to teach disaster preparedness are listed as having 30 years of specialized weapons and tactics training. (University of Hawaii at West Oahu, 2011)

458 (Hawaii Free Press, 2011)

459 (Web Staff, 2013 (MGP))

included the responsibility of coordinating APEC crowd control (Robinson's old position).<sup>460</sup> This leadership change with which HoPD managers would oversee APEC security marked a clear and distinct philosophical change in how Chief Kealoha appeared to be preparing the department for the summit verses the approach taken by Chief Correa. In the weeks following the changes, HoPD was reported as beginning to train officers to use more aggressive control-based approaches when interacting with potential crowds and protestors,<sup>461</sup> evident by military equipment and training being touted by HoPD officials as being necessary, purchased, and readied for use.<sup>462</sup> Media reports on APEC security following Chief Kealoha's appointment even began portraying APEC security measures as warlike writing how, "*Waikiki hasn't seen such heavy security since the military lined the beaches with barbed wire after the 1941 bombing of Pearl Harbor.*"<sup>463</sup>



**Figure 3: Honolulu Police during APEC working with Soldiers to keep out Protesters (Chief Kealoha's plan)**

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460 (Hawaii Free Press, 2011)

461 (Levine, 2011 (GUW)) (MaAvoy, 2011(BCN))

462 (KITV, 2011 (HPFA))

463 (MaAvoy, 2011(BCN))

Public perceptions of police militarization were also fueled by police: closing multiple major public roads, parks, and other public venues simultaneously to accommodate APEC VIP's;<sup>464</sup> restricting access of large portions of the island to accommodate police staging areas;<sup>465</sup> ordering and installing public surveillance cameras throughout Honolulu and Waikiki;<sup>466</sup> relocating entire homeless communities by force;<sup>467</sup> shutting down harbors, fishing areas, and waterways;<sup>468</sup> shutting down freeways during commute hours;<sup>469</sup> and training, equipping, and deploying Honolulu police with military weapons alongside of military personnel.<sup>470</sup> These changes turned Honolulu into (what some referred to as) a quasi-police state.<sup>471</sup> It was also these shifts which subsequently allowed HoPD and Chief Kealoha to justify censoring information and reports to the media citing “*national security*” as a justification for denying access to planning or official documents. With the federal government situated to provide an umbrella of secrecy around police activities, information on what police policy was, or what steps police were taking to prepare were stopped other than what was absolutely necessary to maintain social order.<sup>472</sup> These same training and tactical shifts invested in (and carried out) by Chief Kealoha added to an overall mindset wherein HoPD office developed a more violence-based policing mentality coinciding with their military training known as ‘the *warrior mentality*’ and which has been directly linked to increases in violence against women and the mentally ill.

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464 (Unknown Staff, 2011(APEC1)) (Hawaii Independent Staff, 2011)

465 (Unknown Staff, 2011(APEC1)) (Staff , 2011)

466 (Levine, ‘Big Brother’? Honolulu Police Want to Double Surveillance for APEC, 2011 (BBC)) (Pang G. Y., 2011 (APS)) (Sakahara, 2011) (Star-Advertiser Staff, 2011 (APEC))

467 (McAvoy, 2011 (HPG)) (Nakaso, 2011 (APEC)) (Unknown Staff, 2011 (APEC2))

468 (Okita, 2011)

469 Ibid

470 (Guest Contributor , 2011) (Levine, 2011 (UOF)) (Levine, 2011 (GUW))

471 (Jane, 2011)

472 (Wilson, 2009)

Because the military training given to HoPD was done purposely, and included ‘cross-training’ soldiers and officers to utilize the same strategy in an effort to coordinate any emergency responses, a bridge was once again created wherein the effects of military training on police would intersect evidence of how this training has elevated both public and private violence against women by military personnel.



**Figure 4: Honolulu Police and City Officials begin dismantling homeless encampments near APEC meeting sites**

What exacerbated the militaristic mindset of police was a last-minute policy change by HoPD surrounding their use-of-force policy. The acquisition of new weapons for APEC and cross-militarized training required a new use-of-force policy which allowed police to employ these weapons and tactics in-line with their new militarized training. On October 21 (2011), Civil Beat reporter Michael Levine was able to obtain and publish HoPD’s new use-of-force policy outlining when and how they would respond to protesters at APEC.<sup>473</sup> According to Levine’s article, policy changes just prior to APEC were characterized as,

“It [the new use-of-force policy] outlines the seven levels of resistance, from “psychological intimidation” (things like “glaring at the officer”) to “passive resistance” (“dead weight” posture) all the way up to aggravated active aggression, which includes assault with a weapon that could kill a police officer. Similarly, the document lists eight different “force options,” ranging from mere “officer presence” up to deadly force and firearms. Toward the end of that spectrum are Tasers (Level 6) and less-lethal weapons (Level 7). The department has heavily redacted portions of

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473 (Levine M. , 2011 (UOF))

the document to avoid giving away tactics. Sluyter explained that revealing too much information could help suspects thwart a police officer's efforts to bring them into custody, and could create a more dangerous situation. Blacked out are sections describing strike and kick techniques, approved batons and vascular neck restraints (submission hold). So too, curiously, are sections regarding medical treatment and documentation required when those levels of force are deployed."<sup>474</sup>

Based on the policy revisions surrounding how and when police use force, together with their direct cross-training with military forces, it stands to reason why and how HoPD officers training shifts embedded a '*warrior mentality*'<sup>475</sup> when dealing with the public. Additionally, it stands to reason, based on the evidence, that this psychological mentality resulted from the APEC training. What resulted from these shifts in policy and training led to the aforementioned rise in violent encounters between officers and women or mentally ill residents.

### **3.3 An Intersectional Space Between Police-Based Gender and Ability Violence, and the Warrior Mentality**

As previously stated, similar to military personnel who are charged with maintaining combat readiness (at all times), police are likewise directed by official department policy to live by higher standards of conduct than is legally mandated over other community members or residents.<sup>476</sup> In addition to policies describing off-duty conduct, police bureaucracies are very specific on when an officer may (or cannot) use the training they have received in using force.<sup>477</sup> Also stated was how governmental violence must be officially sanctioned in order to meet the legal parameters of being 'justifiable' or a 'proper use-of-force', and how any violent act committed by a sworn officer (either on or off-duty) must be reviewed by the department to ensure proper compliance with departmental policy.<sup>478</sup> While both the military and police have

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474 (Levine M. , 2011 (UOF))

475 The Warrior Mentality will be described in detail in section 3.3 and is also referred to as the Warrior Mindset

476 (Honolulu Police Department, 2016) (Uniform Code of Military Justice Webstaff, 2016)

477 (Honolulu Police Department, 2016, p. Policy 1.04)

478 (Ibid, Policy 1.04)

ample rules governing conduct, the primary difference lay in how these organizations (and the subculture within them) adhere to those policies, and what systemic mechanism exists overseeing the conduct and policy adherence of each group. This becomes important when factoring in how I described the intentional interconnected military training which was/is given to HoPD officers surrounding APEC security, and what evidence exists surrounding military soldiers' frequency with domestic, gender-based, and ability-based violence as a result of their combat oriented training involving '*the warrior mindset*.' The *warrior mindset* was determined to be a product of military/militarized police training and was proven when research on both police and soldiers demonstrated where immersed persons into potentially hostile environments requiring them to be mentally '*en garde*' for prolonged periods often results in them developing skewed perceptions of people and situations.<sup>479</sup> This condition is critical when discussing the links (or intersections) between 1) police training, 2) military training, and 3) public and private violence against women or the mentally ill.

Compounding exclusions of women and the mentally ill from current reform dialogs occurring nationally on police oversight, is the unfortunate fact that Americans evidently view police based domestic and sexual violence against women as somehow distinct or less important than anti-discriminatory racial violence. According to the National Center for Women and Policing, a division of the Feminist Majority Foundation:

"Two studies have found that *at least 40%* of police officer families experience domestic violence, in contrast to 10% of families in the general population. A third study of older and more experienced officers found a rate of 24%, indicating that domestic violence is 2-4 times more common among police families than American families in general. A police department that has domestic violence offenders among its ranks will not effectively serve and protect victims in the community. Moreover, when officers know of domestic violence committed by

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479 (Murgado, 2012) (Stoughton, 2015)

their colleagues and seek to protect them by covering it up, they expose the department to civil liability.”<sup>480</sup>

These statistics are in line with other criminal justice based academic studies. *Justice Quarterly*, a publication from the Academy of Criminal Justice Sciences, published a report that was presented at their annual meeting in New Orleans in 2014. The report studied 124 cases of law enforcement sexual violence (37 of which were sexual assaults and rapes) by on-duty police officers nationally.<sup>481</sup> When assessing police violence against women in Honolulu, the statistics involving police sexual assaults on women is similarly troubling. According to the Cato Institute, a public policy research organization that runs the national police misconduct reporting project:

“...more than 9 percent of reports of police misconduct in 2010 involved sexual abuse, making it the second-most reported form of misconduct, after the use of excessive force. Comparing that data to FBI crime statistics indicates that sexual assault rates are significantly higher for police when compared to the general population.”<sup>482</sup>

Despite having this data, a complete picture cannot be constructed of the impact or cost of police domestic or sexual violence in the United States. In criminal justice research, unmeasurable statistics involving crime are commonly referred to as, *the dark figure of crime*.<sup>483</sup> Thus, when attempting to portray a full and accurate state of the problem of violence against women by any police agency, there is a *dark figure of crime* that surrounds the entire subject. In Honolulu, given that police-based domestic-violence has been found to be a departmental subcultural supported and cloaked by both police managers and the chain-of-command,<sup>484</sup> the true numbers are not known. As a result of this vagueness in the ability to

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480 (National Center for Women and Policing, 2013)

481 (Kraska & Kappeler, 1995, pp. 85-111)

482 (Carpenter, 2014)

483 (Meadows, 2007, pp. 5-6,9)

484 (Grube, 2014 (GC)) (Grube, 2014 (AT)) (Grube, 2016 (GBK)) (Perez, 2016 (CTL))



frame the totality of this problem, I chose to use an intersectional bridge which connected gender and sexual violence by police in their public duties to domestic violence by officers in their private lives as a way to shed further light on the actual totality of police violence against women. This connection between private and public police violence against women is essential to understanding how HoPD's problems are ultimately interconnected to both the military's problem with gender and sexual violence, and national discussions involving police issues and race.

To best understand how I link police public and private violence as being similarly egregious and on equivalent levels to how the military views domestic and sexual violence against women, a comparison between military personnel and their policies surrounding personal conduct is appropriate. Military personnel live by strict guidelines governing an individual's conduct enforced by zero tolerance policies<sup>485</sup> involving when they can and cannot use their violent training. Few could argue that police (as a core group) have stricter accountability policies and more rules governing conduct than does the military. Despite military leaders attempting to govern and oversee individual conduct with extensive policies and regulations, violence against women by soldiers and soldier-based domestic violence are still very prevalent problems. According to Sara Sorcher, a writer with the Atlantic magazine who investigated sexual-assault statistics and culture within military communities,

"The military's sexual-assault epidemic is well-known—and it is not confined to high-profile cases like the sex-abuse educator discovered running a small-time prostitution ring at Fort Hood, Texas; the Army sergeant charged with secretly videotaping female cadets in West Point bathrooms; or the 33 instructors ensnared in a sex scandal involving twice as many students at Lackland Air Force base, also in Texas. Those scandals fueled the congressional and media frenzy over the 3,374 reported sexual assaults in the military last year. The Pentagon estimates that sexual assaults actually occur far more frequently—and that 26,000 troops were victims of unwanted sexual contact (6.1 percent of

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485 (Gen. Scparrotti, 2014) (Maj. Gen. Milano, 2010)

the military's women and 1.2 percent of its men) last year alone. Fewer than 1 percent of adults in the civilian world experienced something comparable, according to data in the most recent National Crime Victimization Survey."<sup>486</sup>

To Sorcher's studies involving elevated levels of domestic violence by U.S. service personnel on military bases (private violence), I add how studies have also made correlations between female soldiers and civilians who are exposed to U.S. service men (who serve in combat areas) and elevated risks of soldier-based gender violence outside of the family unit (public violence). According to research, both civilian women and female soldiers were targeted by U.S. male service personnel whose mindset and conditions subjected them to long exposures of being immersed within a hyper-aware state of combat readiness. According to the 193 member United Nations' (UN) panel on human rights who reviewed the evidence designed to monitor military violence against women, the problem is so large they felt compelled to issue a warning to the U.S. government about elevated soldier-based gender violence. According to a 2015 article in *Mother Jones* magazine,

"Representatives from Denmark and Slovenia were especially outspoken in their criticism of the United States for not doing enough to prevent and prosecute alleged cases of sexual assault. Vojislav Šuc, Slovenia's representative, encouraged the US to "redouble efforts to prevent sexual violence in the military and ensure protection of offenders and redress for victims."<sup>487</sup>

According to investigating journalist, Samantha Cleare, when attempting to determine how many women have been the victims of sexual violence at the hands of soldiers, the *dark figure of crime* surrounding police domestic violence reporting also obscures the real numbers involving incidents of military domestic violence. According to Cleare,

"An anonymous survey found that nearly 26,000 women in the military were victims of unwanted sexual contact or assault in 2012. In 2013, there were 5,061 official assault sexual reports, but many incidents still remain unreported."<sup>488</sup>

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486 (Sorcher, 2013)

487 (McLaughlin, 2015)

488 (Cleare, 2014)

Cleare also indicated within her study how women who are exposed to sexual assault or violence while serving combat areas have a higher chance of experiencing PTSD, which again begins to make intersectional connections to problems HoPD officers experience when interacting with military veterans suffering from PTSD. Cleare writes,

“These new accounts of sexual assault being made public shows how these injustices play active roles on women soldiers. Rape and sexual assault could be causative factors of the struggles women face after deployment. Painful acts of violence, including rape, increase one’s chances of suffering from PTSD. Some common feelings of rape victims, including fear, stress, and anxiety are also causes and symptoms of PTSD. The combination of sexual violence and the violence on the battlefield can result in grave psychological consequences. Taking more preventative measures against sex crimes in the military could decrease the number of women PTSD victims.”<sup>489</sup>

While seeming unconnected or not interlinked PTSD rates among sexual-assault veterans, and veterans in general (both male and female), will prove intersectional in a later discussion involving police and ability-based violence. Proof of how there are links between militarized training and elevated incidents of rape and sexual violence can also be found in research focused on American soldiers on the battle field encountering indigenous women (public violence). One high profile incident illustrating soldier-based public gender violence involved four U.S. soldiers who were eventually charged with raping and killing a 14-year-old girl, her sister and their parents while in serving in combat in Mahmoudiya, Iraq.<sup>490</sup> U.S. soldiers sexually assaulting indigenous women has been reported in both the Iraqi and Afghani combat areas, and should not be considered a new phenomenon or unique to these combat zones. Journalists Annie Fukushima and Gwyn Kirk in 2013 published an article examining sexual assault by American soldiers stationed abroad in an attempt to discover how prevalent the problem was.<sup>491</sup> Soldiers serving in non-combat zones (an environment similar to local police) were recorded as having

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489 (Cleare, 2014)

490 (CNN Law Center Staff, 2006)

491 (Fukushima & Kirk, 2013)

similar heightened levels of gender-based violence as was seen with soldiers immersed in combat. According to Fukushima and Kirk's report,

"Okinawan women have documented the history of rape by U.S. troops in Okinawa (1945 – present). This research shows how sexual violence is a factor in contemporary tensions surrounding U.S. basing agreements in Okinawa, South Korea, and the Philippines."<sup>492</sup>

The same report, also touched on recent incidents noting,

"Nadje Sadig Al-Ali, a professor of Gender Studies at the University of London, has noted that there are "many documented accounts of physical assaults on women at checkpoints and during house searches." In 2006, six soldiers were accused of rape and murder in connection with the killing of a young Iraqi woman and her family, though the accusations did not lead to convictions. And in 2012, the Center for Research on Globalization reported an incident in which U.S. Special Forces in Afghanistan were accused of raping Afghan women during a raid."<sup>493</sup>

Rape and sexual assault by soldiers is not a unique aspect of American soldiering. By contrast, there is overwhelming data suggesting how the men who are in a constant state of mental combat readiness is responsible for elevated levels of violent crimes based on hyper-masculinity issues. According to Sociologist Henri Myrntinen" who wrote about the intersection of men, weapons, war, and sexual assault, in his article, "Disarming Masculinities":

"Conflict situations tend to reinforce narrow views of masculinity—the men with weapons have the power, men are often expected by tradition to be either warriors and/or protectors, and failure to live up to these expectations leads to violence against those perceived to be in an even weaker position, e.g. in the domestic environment. The 'masculinity' of civilians is contested by male combatants, for example through the rape of the man, or else his partner, children or relatives who the unarmed male is unable to protect."<sup>494</sup>

This interconnectivity between 1) how soldiers are trained using hyper-masculine control based violence, 2) elevated levels of sexual and domestic assaults throughout the military and 3) how local police training now integrates some military aspects, becomes even more important given how former HoPD Chief Kealoha prioritized military training of HoPD officers leading up (and subsequent) to the 2011 APEC conference. With military officials nationwide both acknowledging and being devoted to reducing violence against women, sexual assault, and

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492 (Fukushima & Kirk, 2013)

493 Ibid

494 (Myrntinen, 2003)

family-based violence by military service members it is clear how the military has acknowledged the existence of a triangular intersectional link between 1) the training received by soldiers, 2) their mindset and perceptions, and 3) increased levels of violent crimes against women.

Similarly to military personnel who are charged with maintaining combat readiness (at all times), police are likewise directed by departmental policies and guidelines to live by higher standards of conduct than is legally mandated to other community members with the idea they may be recalled to duty should a city/county/state crisis arise. Departmental policies instruct public safety personnel on conduct that is prohibited during off-duty hours due to their heightened (or elevated) responsibility entrusted by government and need to be ‘on-call’. It is understood by police that they may be called upon at any moment to perform their duties for the state, and when taking police action that they represent (not themselves but) the state in similar fashion to how soldiers are perceived.

Because governmental violence must be officially sanctioned in order to meet the legal parameters of ‘justifiable homicide’ or ‘proper use-of-force’ by both soldiers and police, any ‘use-of-force’ committed by a sworn police officer (either on or off-duty) must be reviewed by the department to ensure proper compliance to policy, similarly to soldiers. Given this intersectional connection between military and police (para-military) policy, intersectional theory creates a space from which to connect both police personnel who commit acts of illegal domestic violence and police who commit acts of both violence against race and gender. Intersectional theory adds to this discourse by highlighting the fact that domestic violence is by nature, gendered discriminatory violence (thus domestic violence is in itself discriminatory similarly to race-based violence and is meant to be oppressive in nature), and a form of exploitive colonialization of women’s power by men. In addition to domestic-based violence being a

violation of most policing agencies' use-of-force policy, unlawful family-based violence by a police officer is also demonstrative of either a loss of individual self-control, a disregard for departmental policy, or a failure to train/failure to be trained.

This training assessment is both a legal issue for bureaucracies responsible for ensuring proper training of their officers, and is important when determining how effective the prescribed training addressing self-control has been. All officers (supposedly)<sup>495</sup> receive training at their locally run police academy and within their annual departmental training that is specifically designed to heighten an individual's ability to control their anger and emotions, thus allowing them to live and operate within prescribed policies. These skills are essential for each officer or military member, as the government often places these individuals directly into a conflictual environment with the expressed intent for them not to act unless directed or prescribed.

### **3.4 The Warrior Mentality & HoPD Gender-Based Violence Rates**

What my research has pointed to as being evident was how during the time Chief Kealoha's assumed command in the lead-up to APEC (2009) until this forced retirement due to allegations of public racketeering (2016) HoPD officers, supervisors, and managers tended to view departmental policies and guidelines as advisory rather than absolute.<sup>496</sup> When this *lessee fair attitude* towards guidelines meant to stem use-of-force is allowed to become ingrained into an agencies subcultural norms and bias's, a danger exists of increased violence directed at anyone confronting a individuals possessing this combat molded training (involving armed self-defense

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495 No statewide oversight agency monitors police training or standards in Hawaii. This became problematic when a large-scale cheating scandal was exposed within the county of Honolulu Police Training Academy (who enjoy autonomous operations) while legislative reform attempts were simultaneously underway to professionalize police statewide. (Kerr, 2016 (GSW))

496 (Cruz, 2016) (Daranciang, 2015) (Daysog, 2013 (AYK)) (Daysog, 2014) (Gajanan, 2015) (Grube, 2013 (MC)) (Perez, 2016 (SOC))

tactics.) In other words, while the military takes a zero-tolerance policy when addressing soldier-based private and public gender-based violence, HoPD managers (led by Chief Kealoha) addressed these same policy violations with a one (1) day suspensions without pay.<sup>497</sup>

Questions about why HoPD officers have so many incidents involving their apparent loss of control involving anger have had either quizzical or non-responsive statements by HoPD managers<sup>498</sup> subsequent to APEC, but are easily explained when factoring training dependent on maintaining ‘a warrior mindset’ was used by HoPD leading up to (and following) their preparation to provide APEC security.

According to Psychologists Scott Modell and Dave Cropp who wrote about police who receive militarized training in their article “Police Officers and Disability: Perceptions and Attitudes” within *Intellectual and Developmental Disabilities Journal*, police are trained to approach and interact with the communities in much the same way that American combat troops approach and interact with communities they conquer and are charged to oversee in foreign countries.

According to Modell and Cropp’s research,

“Police officers may tend to develop a mindset that they are in a battle zone. Realistically, sometimes they are. It is safe to say, theoretically, that there is a war against drugs, against crime, against poverty. The attitude and perception of law enforcement as a paramilitary organization and society as a battle zone may lead to police officers developing a warrior mentality. Chevigny (1995, p250) stated “police departments who view themselves as similar to a military force may tend to use violence as an instrument of control more than departments who view themselves as an integral part of society.”<sup>499</sup>

This ‘*warrior mentality*’ has also been referred to as, ‘*the warrior mindset*’ by psychologists studying it. ‘*First-shooter*’ (counter terror) training drills police into thinking tactically about all situations in life, and emphasizes how officers need to commit to the ‘*warrior mindset*.’

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497 (Grube, 2013 (MC)) (Grube, 2014 (GC)) (Kawano, 2014 (CGH))

498 (Espero, Hunger, & Vanic, 2016)

499 (Modell & Cropp, 2007, p. 52)

According to Seth Stoughton, a legal expert investigating the legal implications of *the warrior mindset* (which first-shooter training is based upon,) when officers are trained to handle encounters which have the potential to be dangerous using the *warrior mindset*, they are basically trained to react out of fear. This often times can be deadly to those police are encountering, especially if the officer and citizen have two separate and distinct perceptions of what is real (reality). Stoughton notes this in an article published in the Harvard Law Review writing,

“Under this warrior worldview, officers are locked in intermittent and unpredictable combat with unknown but highly lethal enemies. As a result, officers learn to be afraid. That isn’t the word used in law enforcement circles, of course. Vigilant, attentive, cautious, alert, or observant are the terms that appear most often in police publications. But make no mistake, officers don’t learn to be vigilant, attentive, cautious, alert, and observant just because it’s fun. They do so because they are afraid. Fear is ubiquitous in law enforcement. As I’ve written elsewhere, officers are: constantly barraged with the message that that they should be afraid, that their survival depends on it. Not only do officers hear it in formal training, they also hear it informally from supervisors and older officers. They talk about it with their peers. They see it on police forums and law enforcement publications. For Warriors, hypervigilance offers the best chance for survival. ‘From the start of any police academy, we are taught as cops to be ever vigilant — to apply laser-like attention to our surroundings at all times.’ Officers learn to treat every individual they interact with as an armed threat and every situation as a deadly force encounter in the making.”<sup>500</sup>

First-shooter training (based upon using the warrior mindset) was the training priority and focus for HoPD under Chief Kealoha during his administration, and is how all officers were trained in the months leading up to APEC alongside of combat troops under General Lee’s command.<sup>501</sup> Since that point, HoPD administrators’ prioritization of military solutions over community policing techniques became clear. Chief Kealoha was questioned about HoPD training by the Honolulu County Council, following the Cachola incident (2014), wherein he made clear that HoPD officers will continue to receive ‘first-shooter’ based training because of its attachment to federal funds included in counter-terror (Homeland Security) based training.<sup>502</sup>

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500 (Stoughton, 2015)

501 (Hite, 2014)

502 (Kealoha, 2014 (CCH))



As previously stated, many communities are called into action to address police oversight based on a single case, incident, homicide, or event which shocks the community conscious. For Honolulu residents that case was the Cachola incident, which not only brought about local attention to police misconduct surrounding violence against women, but became a national poster for why police-based domestic violence is still largely unaddressed. It was also the *Cachola incident* which was responsible for changing many Honolulu residents view, image, trust, and confidence in Chief Kealoha, the Honolulu police department, the Honolulu Police Commission, and the Honolulu Prosecutor.<sup>503</sup>

Although evidence of HoPD misconduct was beginning to become more apparent through a growing number of officers being caught breaking the law or departmental policy after APEC, Honolulu residents were (are) still hesitant to be openly critical of police. There is a local saying, “*don’t be the nail which sticks up, as you will get pounded down,*” which is indicative of a local resistance to confront authority or be seen as someone who is critical of authority. This is partially due to the awareness that islands are small communities where one’s name can quickly be known and ostracized. It also has to do with the strong Japanese presence and demographic which has a history of being compliant with government and not challenging government. In addition to these unique geographic environmental issues, was also struck by how few residents understood (or understand) what systemic mechanisms were available in Honolulu to address police malfeasance or how American criminal justice was designed to operate.<sup>504</sup> Many community members feel (felt) they serve police, and not police serve them. It was within this environment of public ignorance and lack of understanding HoPD officers, managers, and

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503 (Kerr, 2014 (FCS))

504 (Civil Beat Editorial Board, 2016)

administrators became (and to a large extent still remain) autonomous from public or official scrutiny or oversight.<sup>505</sup> This once again leads back to the colonial project, and purposefully withholding education and information from the public as a control mechanism. What I also found during my analysis when attempting to uncover the scope of problems caused by Chief Kealoha and HoPD's training shifts made during APEC was how HoPD managers used women's gender as an excuse for not disclosing statistical information; citing privacy rights for victims while simultaneously contributing to their victimization.<sup>506</sup>

What I was able to determine through my research was following APEC there was a dramatic increase of HoPD officers who became engaged in crimes involving violence, exploitation, and misconduct against women which again appears connected with the warrior mentality (See **Appendix A**). These crimes included Chief Kealoha and his command staffed supporting ongoing policies that allowed investigators to engage in sexual intercourse with prostitutes,<sup>507</sup> sexual assaulted (e.g. Officers Kramer Aoki and Nicholas Masagatani),<sup>508</sup> domestic violence (e.g. Officers Danson Cappo and Scott Kobayashi),<sup>509</sup> extortion (e.g. Officer Roddy Tsunozumi),<sup>510</sup> wire fraud, bribery, and extortion of prostitutes (e.g. Officer Maulia Labarra),<sup>511</sup> and statutory rape (e.g. Officer Jessoe Laconsay<sup>512</sup> and Teddy Van Lerberghe).<sup>513</sup> Although this list is not a full accounting of all of the incidents involving gender-violence committed by HoPD

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505 (Grube N. , 2013 (WPDK))

506 (Kawano, 2016 (CMS))

507 (Steogewald, 2014)

508 (Grube N. , 2015 (HELM))

509 Ibid

510 Ibid

511 (Kawano, 2016 (UHVb))

512 (Davis C. , 2016 (IIV))

513 (Web Staff, 2017 (ACRC)) This event occurred between 2004 – 2008, but then took place after that date when the victim was no longer a minor. Van Lerberghe is only charged with the rape during the period when the female victim was under 14.

officers, they do represent the diversity and depth of the problems that Honolulu residents and lawmakers face(d).

Much of the power behind the Cachola incident had to do with timing. By this I mean that in September (2014) HoPD violence was a topic of public discourse due to the homicides of Elderts, Gilmore, Dinnan, Nelson, and Pickard Jr, all of which I will discuss in the next section of this Chapter when addressing HoPD-based homicides of the mentally ill. During this same period, the national media was focused on police-race based violence due to the killing of Eric Garner in Staten Island, N.Y, and Levar Jones in Columbia, S.C. Honolulu residents were already beginning to make connections between national and local police-based violence despite local issues not being race-based. Another important note about the timing of the *Cachola incident* involves how the national media and the National Football League (NFL) both began focusing attention on domestic violence due to the Ray Rice incident. In September (2014) national media began to air footage of NFL superstar Ray Rice dragging his unconscious fiancée from an elevator after punching her and knocking her out during a February (2014) domestic violence incident.<sup>514</sup> The fact media was focused on both police-based violence and domestic violence simultaneously allowed many Honolulu residence to see the intersection of where the Cachola video bridged both issues within a local framework.

According to media reports, Deborah Aton was the manager of Kuni's Lounge, which is a distinct but associated business to Kuni's Restaurant situated in the adjoining unit on the same property.<sup>515</sup> Aton's job includes managing several hostesses whose job it was to 'entertain' male guests in the lounge.<sup>516</sup> Sergeant Cachola was known to frequent both the lounge and restaurant,

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514 (ReblopTV News, 2014) (TMZ staff, 2014)

515 (Kuni Lounge, 2015)

516 Ibid

as he was at the time involved in a personal sexual relationship with Ms. Aton. During this period, Aton and Cachola were cohabitating meaning they met the legal parameters of being in a domestic relationship.<sup>517</sup> Although this relationship between ‘hostess’ manager and police sergeant enters a power dynamic forbidden by most policing organizations due to the grey area of being a ‘hostess’, Chief Kealoha and his staff saw the relationship as being non-consequential (evident by their lack of action or statements indicative of being problematic or developing policies after the incident.)<sup>518</sup>

During the evening of September 8<sup>th</sup>, 2014 at approximately 10:20pm (just 24 hours after the Rice video began airing nationally,) Honolulu 911 dispatchers received a call of a police officer trying to attack a restaurant manager at Kuni’s Restaurant.<sup>519</sup> Because the caller alleged a police officer may be involved in a crime, HoPD policy mandated supervisors be dispatched and investigate. Dispatchers sent two HoPD patrol officers (who worked for Cachola,) and Sgt. Mike Kahikina (a colleague and friend of Cachola’s) to investigate.<sup>520</sup>

What was reported to have occurred throughout the evening of September 8<sup>th</sup>, was that Ms. Aton and Sgt. Cachola were involved in an off-and-on altercation conducted over their cellular phones.<sup>521</sup> It was alleged Cachola suspected Aton of infidelity within the relationship, and wanted to prove this by collecting evidence off of Aton’s cellular phone. At approximately 9:00pm (while Aton was still working) Cachola responded to the business where Aton was

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517 (Kawano, 2014 (RV)) (Kerr, 2014 (DCIT))

518 Honolulu Police managers underwent both Legislative inquiries as to the incident on the local and state level. Police officials never mentioned the relationship dynamic between Sgt. Cachola and Deborah (a Hostess Bar Manager), nor was the administration ever asked by reporters, journalists, legislators, or prosecutors about the apparent inappropriateness of the relationship. (Kealoha, 2014 (CCH)) (Kealoha, 2014 (MA))

519 (Hawai’i Free Press Staff, 2014) (Kawano, 2014 (KVB))

520 (Kerr, 2015 (PWD))

521 (Grube N. , 2014 (W)) (Kawano, 2014 (RV))

outside waiting to confront him.<sup>522</sup> CCTV video shows where Cachola walks up and takes Aton's phone, causing Aton to jump on Cachola's back and attempt to grab her phone from his hands.<sup>523</sup> With Aton on his back, Cachola launches himself backwards into the wall of the business pinning Aton against the wall, and forcing her head into the bricks.<sup>524</sup> This action then results in the two losing balance and falling to the pavement, wherein Aton climbs onto Cachola attempting to regain control of her phone.<sup>525</sup> Aton strikes Cachola twice in the head and shoulders area as she attempts to force him into releasing the phone and as a defensive measure.<sup>526</sup> After Cachola drops the phone and Aton regains control of it, Aton backs away allowing them both to get to their feet.<sup>527</sup> Cachola then walks out of the view of surveillance video, leaving Aton holding her head in pain.<sup>528</sup>

At approximately 10:10pm on the same evening, and just following the closing of the restaurant, CCTV shows Cachola returning to apparently confront Aton.<sup>529</sup> This time Aton retreats into the restaurant pursued by Cachola. As Aton retreats, Cachola grabs her hair pulling it and causing her to bend in an attempt to free her hair from his grip.<sup>530</sup> As Aton attempts to break free by prying Cachola's hands away from her hair, Cachola uses his free hand to repeatedly strike Aton in the head while kicking at her feet thereby driving her backwards.<sup>531</sup> Aton, pulling away, then stumbles back into the kitchen area with Cachola continuing to pull her toward him by the hair while continuously striking her in the head with his free hand.<sup>532</sup> Aton falls back into the sink

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522 (Grube, 2014 (W)) (Kawano, 2014 (RV))

523 Ibid

524 Ibid

525 Ibid

526 Ibid

527 Ibid

528 Ibid

529 (Grube N. , 2014 (W)) (Kerr, 2014 (DCIT))

530 Ibid

531 Ibid

532 Ibid

area where she attempts to curl into a defensive ball, still being pulled towards Cachola by her hair.<sup>533</sup> Cachola can be seen standing over her punching her in the head until being pulled away by the manager and other employees of the restaurant.<sup>534</sup>



**Figure 5: Cachola video showing him punching Deborah who can be seen attempting to fend off his attack and retreat.**

According to the 911 call placed by the restaurant manager (made just after he pulled Cachola away from Aton) Cachola can be heard in the background confronted and telling him to not call police (all of which can be overheard on the 911 tape).<sup>535</sup> The entire evening's events between Cachola and Aton were caught on surveillance video, which was available on-scene when police arrived and investigated the situation. Although dispatchers ensured a supervisor (Sgt Kahikina) responded to the call, no arrests were made, no reports were filed, and the video was not reviewed or taken. Instead Sgt. Kahikina decided to drive Sgt Cachola home and ordered both officers to not document the incident.<sup>536</sup> The responding officers decided to obey and not expose either Sgt. Kahikina's decision or Sgt. Cachola's conduct to internal affairs investigators, which

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533 (Grube, 2014 (W)) (Kerr, 2014 (DCIT))

534 (Kearns, 2014) (Kerr, 2014 (FCS))

535 (Grube N. , 2014 (W))

536 The Kuni Lounge, and Kuni Restaurant are adjacent properties of the same owner, but are managed as two distinct entities.

effectively left the incident undocumented and appearing as if though it never happen.<sup>537</sup> This is demonstrative of another way in which the *dark figure of crime*<sup>538</sup> is formed. In effect, HoPD officers attempted to hide the incident and cover for their supervisor. Unfortunately for police, an anonymous co-worker of Aton acquired the business' CCTV surveillance video and turned it over to Hawaii News Now and Keoki Kerr.

As previously mentioned, due to the national attention being given to the NFL - Rice domestic violence video on September 8 (2014), and the fact NFL players and Hollywood actors were politically active in using their social platform to be outspoken against domestic violence at that moment, the Cachola video was immediately picked up by national media outlets and made part of a larger national discussion which attempted to link police-based violence and domestic violence.<sup>539</sup> National media outlets began pointed at Chief Kealoha and HoPD as being indicative of a greater national problem involving police sanctioned domestic violence and secretive police-based violence in general, evident by the manner in which Chief Kealoha and his administrators were attempting to '*white-wash*' the entire incident.<sup>540</sup> This appeared to many residents, lawmakers, and others as if Chief Kealoha was attempting to cover-up the *cover-up*, while justifying the conduct of his police officer. Although Sgt. Cachola had a history of domestic violence to include having a restraining order against him by his ex-wife, HoPD officer and managers never separated Ms. Aton from him, thereby allowing the suspect to continue intimidating the witness<sup>541</sup> during both the police review and grand jury.

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537 (Cachola Commission - Videotestimony, 2014) (Thielen, 2014)

538 Dark Figure of Crime is a criminological term meant to describe any crime that is not statistically accounted for, or is unreported

539 (Kearns, 2014)

540 (Crimesider Staff, 2014) (Kearns, 2014) (Urbanski, 2014)

541Ms. Aton is a witness (as are all persons subjected to family violence) as the victim is the state. This is why police are able to make arrests without the cooperation of the individual who was targeted with the violence. Police officers are taught how they

As the national media was characterizing HoPD officials and the prosecutors conduct as being shameful, local journalists were quick to counter national reports with ‘*mitigating factors*’ which included victim blaming.<sup>542</sup> While national media outlets characterized SGT Cachola as a prime example of why police-based domestic violence was an important topic, local media outlets instead highlighted Chief Kealoha’s and SHOPO’s byline of how Ms. Aton was really the aggressor, and how they were powerless to do anything because she was not cooperative.<sup>543</sup> When the strategy of portraying themselves and the Police Department as powerless did not sit well with lawmakers or local residents, Chief Kealoha and SHOPO used to the media to attempt to convince residents of how Sgt Cachola was actually the victim of Ms. Aton’s attack by releasing only a portion of the complete incident, wherein Ms. Aton was attempted to retrieve her phone and struck Sgt. Cachola.<sup>544</sup> Additionally, the video was given no context as to what was occurring, because with Chief Kealoha continuously stating “it is an ongoing investigation.” This meant, while the police were not at liberty to discuss the case, they felt they were at liberty to release portions of the video without context which appear to exonerate Sgt Cachola’s conduct to the ill-informed. Because police and the media did not explain the video other than to point out how Ms. Aton appeared to be the aggressor, it was clear how there was a strategy to reframe the incident making Sgt. Cachola the victim.<sup>545</sup> When the public refused to accept Chief Kealoha’s explanation or partial video footage, and the tactic of blaming Ms. Aton failed Chief Kealoha and SHOPO President Ma’afala switched tactics again. This time both men claimed Sgt Cachola and Ms. Aton were both trained fighters and were only “playing “and “sparring,” which

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are to make a determination and not rely on cooperation from the injured or targeted party. A fact which Chief Kealoha, Prosecutor Kaneshiro, and SHOPO President Ma’afala misinformed the public with.

542 (Kawano, 2014 (RV)) (Mari, 2014) (Mari, 2014 (FI))

543 (Kawano, 2014 (FB)) Again, the state is the victim in all domestic violence cases specifically so prosecutors and police are able to prosecute offenders without the cooperation or testimony from the targeted individual in family violence cases.

544 (KHON2, 2014) (Mari, 2014 (FI))

545 (KHON2, 2014)



(according to them) was not illegal and that no laws or policies had been violated.<sup>546</sup> This again caused public outrage, as any non-police citizen who chose to spar in a public restaurant would be arrested for disturbing the peace, or other charges of disorderly public conduct. This tactic by the Chief and SHOPO president finally was enough to outrage many local women's advocates, domestic violence activists, police reformers, and legislators into deciding *enough was enough*, and reform of HoPD and Chief Kealoha conduct and management was necessary.<sup>547</sup>

Despite their being obvious public outrage and pressure for all of the officers to be held accountable by police administrators, Chief Kealoha and the Honolulu Police Commission reviewed the Cachola incident and found there was not enough evidence to prove anyone had done anything wrong.<sup>548</sup> This final move to clear Cachola of departmental wrongdoing appeared to many residents as an obvious attempt by Chief Kealoha to downplay the Cachola incident, thereby infuriated the public even more. Although HoPD had found Cachola innocent of policy wrongdoing, most residents believed once Cachola was brought before a judge within the county court system that *justice would finally prevail*.<sup>549</sup> Residents quickly found out, they were wrong.

In October (2014) Honolulu County Prosecutor Keith Kaneshiro (who happened to also be the boss of Chief Kealoha's wife and longtime friend of the Chief)<sup>550</sup> decided not refer the Cachola case to the Hawaii State Attorney (for impartiality) or to file charges directly thereby allowing a judge to oversee a public trial, but instead decided to use a grand jury.<sup>551</sup> Despite legal experts, criminologists, and criminal justice experts pointing to how the grand jury is really a legal

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546 (Kawano, 2014 (KVB)) (Civil Beat Editorial Staff, 2014 (CGO))

547 (KITV, 2014 (WSOC)) (Thielen, 2014)

548 (Kakesako, 2014 (CP))

549 Ibid

550 (Grube N. , 2016 (HPD-Pros))

551 (Wakida, 2014)

mechanism of the prosecutor's office,<sup>552</sup> Kaneshiro and his staff said they were unable to convince their own grand jury to charge Cachola.<sup>553</sup> This inability of the prosecutor to obtain an indictment left many residents and experts to wonder about the integrity of the Honolulu criminal justice system, and whether criminal conspiratorial collusion exists between HoPD and Honolulu prosecutor's office.<sup>554</sup> Many in Honolulu have called Kaneshiro's actions, ethics, and ability into question subsequent to his actions during the Cachola hearing, and another reason why police feel autonomous when acting violently against women or the mentally ill.<sup>555</sup> What continues to enrage local domestic violence advocates and criminologists in Honolulu is how despite a theatrical firing of Sgt. Cachola, he was quietly reinstated and given back-pay before being reassigned out of public view in the basement of police headquarters, where he continues to work as of 2017.

How the Cachola incident was handled by Chief Kealoha and his staff led to legislative hearings at both the state and count levels simultaneously.<sup>556</sup> These hearings included Chief Kealoha and his command staff attempting to explain why Cachola was not being held accountable. What these hearing eventually led to was the exposure of a subculture within HoPD which is supportive of violence against women.<sup>557</sup> The "Cachola" case is perceived by many local domestic violence advocates, feminist groups, and researchers as being indicative of an integrated system of hegemonic misogynistic police attitudes existing department-wide within

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552 (Johnson, Chesney-Lind, & Chagnon, 2014 (T))

553 (Kelleher, 2014)

554 (Johnson, Chesney-Lind, & Chagnon, 2014 (T)) (Kelleher, 2014) (Kawano, 2016 (KKT))

555 (ibid)

556 (Kealoha, 2014 (CCH)) (Kealoha, 2014 (MA))

557 (Cachola Commission - Videotestimony, 2014)

HoPD, and which condones, camouflages, and conspires to engage in violence against women, including domestic violence by its officers.<sup>558</sup>

The Cachola incident furthers the argument of how while average citizens enjoy a constitutional right of privacy surrounding their home and private life, police must be held to a higher standard of conduct based on their training which exposes them to the *warrior mindset*.<sup>559</sup> Studies into how the *warrior mindset* effects soldiers and police also highlight how it is counterintuitive to expose police to the *warrior mindset* without placing the numerous safeguards, check-and-balance systems, and accountability mechanisms in place with the training, which is designed to oversee monitor and oversee police conduct.<sup>560</sup> These studies also demonstrate how even with all of the control mechanisms placed on soldiers to deter sexual violence and other gender-based violence, the mechanisms and safeguards only reduce the problem but are unable to stop it totally. This appears evident based on the scope of sexual assault, rape, and domestic violence in the military still being unknown. This inability to measure police or military violence stemming from the warrior mentality is again due to the *dark figure of crime* that exists in both military and civilian communities, and which surrounds both private and public gender-based violence. According to Sorcher this dark figure of crime is spurred when victims are faced with the reality of not being able to liberate themselves from the situation or offender, as was the case with Ms. Aton and Sgt. Cachola. Sorcher notes,

“Knowing they have to stay in an environment where the group may side with the perpetrator can discourage victims from reporting the attack.”<sup>561</sup>

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558 (Civil Beat Editorial Board, 2014) (Crimesider Staff, 2014) (Fawcett, 2014 (DVC)) (Kawano, 2014 (CGH))

559 (Honolulu Police Department, 2016)

560 (Stoughton, 2015)

561 (Sorcher, 2013)

With the military admitting there is underreporting involving crimes against women and military personnel, it should also be hypothesized HoPD (who also utilize a *warrior mindset*) are also underreporting these incidents. This assumption became factual when in 2016 evidence of HoPD underreporting was exposed by local journalists. According to these reports, HoPD officers routinely discourage reporting of domestic violence by police family members, going so far as to use intimidation or threats to dissuade women from reporting.<sup>562</sup> Rob Perez, a Honolulu journalist who published an expose of stories devoted to exposing HoPD misconduct and underreporting, wrote how family violence was an evident and underreported problem within HoPD's subculture.<sup>563</sup> Perez's investigation noted 3.7 percent of HoPD's 2100 officers had restraining orders filed against them as of 2016, with 75% of those orders being granted after a judicial review of the allegations being made against the officers.<sup>564</sup> Again, these were the known statistics based on court records. Factoring in how there is a *dark figure of crime* surrounding police-based domestic violence; the true number of incidents remains unknown but is assumedly higher.

Because policing and soldiering are both occupations immersed in cultures of violence (requiring a *warrior mindset*), and because both subcultures have been found to obscure the real scope or depth of violence against women, plans relying on a unification of police mentality to those of the military (as is the case in first-shooter training and fusion coordination) should come with additional training safeguards specifically designed to safeguard women and their sexuality. Despite there being an interconnectivity between military and police conduct which demands greater oversight and accountability, HoPD managers have continuously refused to adjust

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562 (Perez, 2016 (CTL))

563 Ibid

564 Ibid

training to include these components citing their “Gold Standard” accreditation as to why they are best situated to make training recommendations over academic experts.<sup>565</sup>

According to criminologist Samuel Walker in his book, *Police Accountability: The Role of Citizen Oversight*, Police Chief’s investment in, and reliance on, accreditation models is problematic when believing they construct training policy, or have the ability to aid in disciplining local police officers.<sup>566</sup> The Commission on Law Enforcement Agencies (CALEA) is *the* (only) non-governmental business whose purpose is stated as being to: “*improve the delivery of public safety services, primarily by: maintaining a body of standards, developed by public safety practitioners, covering a wide range of up-to-date public safety initiative; establishing and administering an accreditation process; and recognizing professional excellence.*”<sup>567</sup> The CALEA model has no direct accountability tools, other than to suspend the very item they seek to be paid for confirming, nor can it develop a syllabus for police managers designed to address training issues (like the *warrior mindset*). In other words, it is not in CALEA’s businesses interest to de-accredit (and thereby alienate) a paying customer who has problems with either their policies or oversight. Instead, as Walker notes, CALEA has every reason to overlook or ignore violations of their own policies,<sup>568</sup> which is what occurred with HoPD in 2016 when both policy violations and conduct problems with HoPD officers was brought to CALEA’s attention by Hawaii State Senator Laura Thielen.<sup>569</sup> Similar to college accreditation, CALEA is not designed as an independent oversight mechanism; instead CALEA

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565 (Grube N. , 2015 (NB)) (Kerr, 2016 (GSW))

566 (Walker, 2005, p. 28)

567 (The Commission on Accreditation for Law Enforcement Agencies, Inc., 2010)

568 (Walker, 2005, p. 28)

569 This will be expanded and explained in detail in Chapter 4.

was developed by Police Chiefs as a professionalization tool.<sup>570</sup> Walker notes these accountability shortcomings of CALEA writing,

“The shortcomings of professionalization as also evident in the law enforcement accreditation process administered by the Commission on Accreditation for Law Enforcement Agencies (CALEA.) Professional self-regulation through accreditation is one of the hallmarks of all established professions. Accreditation in policing, however, was very late in developing and today has had only a limited impact of policing. By early 2004, only about 500 of the nearly 18,000 law enforcement agencies in the country were accredited. Accreditation is entirely voluntary and there is absolutely no penalty, such as the loss of federal funds, for a police department that is not accredited. The current accreditation standards themselves are also cause for concern. With rare exception, they do not embody substantive requirements-what might be called standards of care – on specific issues. Typically, they require than an agency “have a written policy on” or that a particular staff member be responsible for a particular issue. They do not, however, specify what that policy should be.”<sup>571</sup>

CALEA refers and markets itself as “The Gold Standard” (a slogan found under their name on their website),<sup>572</sup> which as previously stated has allowed Chief Kealoha and HoPD managers to lull the public, media, and legislators into believing internal professionalization strategies are the best way to obtain accountability of officers conduct or address ongoing training problems involving the warrior mentality stemming from ‘first shooter’ based training.<sup>573</sup>

Although data has proven that HoPD officers routinely engaged in domestic and targeted sexual violence against women in Honolulu well before 2014, it wasn’t until a single videotaped domestic-violence incident involving HoPD Sgt. Darren Cachola was broadcast nationwide that local residents, lawmakers, scholars, journalists, and reformers all bridged their efforts surrounding police reform policy and began to address corrupt HoPD practices as a unified group. Because this was a historical galvanizing of efforts, the event has become known locally as: “Cachola.” As has been the pattern within many communities activated into action due to a single incident of police-based racial violence, it was this single police-based event which

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570 (The Commission on Accreditation for Law Enforcement Agencies, Inc., 2010)

571 (Walker, 2005, p. 28)

572 (The Commission on Accreditation for Law Enforcement Agencies, Inc., 2010)

573 (Kerr, 2016 (GSW))

sparked communal outrage leading to an overhauling of how citizens wanted HoPD officers held accountable. In Honolulu, this single major event was the Cachola incident whose fallout is responsible for changing many Honolulu residents view, image, trust, and confidence in former HoPD Chief Kealoha, HoPD officers, the Honolulu Police Commission (HPC), and the Honolulu Prosecutor.<sup>574</sup>

### **3.5 The Warrior Mentality & HoPD Ability-Based Violence Rates**

Police-based violence against women is not the only intersectional point where police violence, the warrior mentality and interlocking systems of oppression merge. As was previously stated in chapter one, Patricia Hill's theory of interlocking systems of oppression include race, sex, gender, class and ability. Ability, or more precisely the disabled, seems to be another problematic area of training for HoPD officers and managers. In Honolulu incidents of police homicides do not involve a strong racial component, instead police seem fixed on shooting and killing residents who are coping with mental illness, especially military veterans suffering for various forms of PTSD. This begins to connect the previous discussion on how women who are sexually assaulted as soldiers often suffer from PTSD, and how HoPD officers lack of training results in a further victimization of these women. The fact HoPD officers have no policies guiding them on how to handle mentally ill suspects, and receive only 8 hours of training in the academy mainly geared towards instructing them how to commit (arrest) people they determine are a threat to themselves or others, is problematic given the fact (as previously mentioned) Honolulu is an island community which is also home to multiple U.S. Army, Navy, Air Force, Coast Guard, National Guard, and Marine bases. Although military personnel are not stereo

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574 (Kerr, 2014 (FCS))

typical of who is associated with mental disabilities, current data shows military veterans are being diagnosed more frequently with mental disabilities triggered by military service or training.<sup>575</sup> The prevalence with which veterans and military personnel can be found amongst island residence would appear to demand HoPD officers receive specific training focused on how best to handle individuals who suffer from PTSD, or other combat related stress (whose actions are often characterized as aggressively confrontational towards authority.)<sup>576</sup> Despite these facts, Chief Kealoha, SHOPO and HoPD manager continue to fight legislative bills funding additional mental illness training for officers and instead invest in strategies revolving around “first-shooter” approaches with contacting citizens.<sup>577</sup> This is problematic, given the aforementioned *warrior mindset*<sup>578</sup> together with PTSD veterans tendency to be aggressive towards uniformed authority figures.<sup>579</sup> Given these two variables (lots of veterans with PTSD based mental illness and police immersed in the *warrior mentality*) an elevation in police-related homicides against the mentally ill begins to make sense and was revealed when assessing non-gendered police-violence and homicides **(See Appendix B).**

This appears to be what is currently happening post APEC retraining with HoPD officers who encounter mentally ill individuals. The list of individuals with varying forms of disabilities killed during an encounter with HoPD officers includes: Stephen Dinnan, James Pickard Jr, Gregory Gordon, Richard Nelson, Victor Rivera, Sheldon Haleck, Thomas Davis, and Pernell Aio. These police-based homicides involved mentally ill suspects who broke out of police

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575 (Sayers, Farrow, Ross, & Oslin, 2009)

576 (Office of Public Affairs , 2015)

577 State Legislative bills mandating police to adopt more training directed towards handling citizens with mental disabilities has was defeated in Fy 2014, 2015, and 2016. Honolulu police policies (currently) have no specific sections which detail or guide officers. County Commissioners and the Mayor have been political to say mental illness is a problem, but have been careful not to connect mental illness violence, and police brutality together.

578 (Stoughton, 2015)

579 (Office of Public Affairs , 2015)



custody during transport, were chased by police and ended up killing themselves, were deaf and wheelchair bound and got run over by speeding police cars transporting juveniles, were jaywalking in the street and were tasered to death, and/or got shot by police when attempting to flee on foot or in their car. Although all of these cases were brushed aside by both the Police Chief and Police Commission as an unfortunate byproduct of policing, they all collectively demonstrate a problem with officers training and conduct when interacting or handling mentally ill suspects or individuals.

Although it is not known exactly how many of Honolulu's veterans are 'combat' veterans (or how many of the homeless are veterans for that matter), what can be measured is the latest statistical data provided by the Veteran's Administration. According to the V.A., Hawaii has approximately 120,000 veterans statewide. The overwhelming majority of veterans in the state are concentrated on Oahu (Honolulu County) where medical facilities and services for veterans are more abundant.<sup>580</sup> Oahu (Honolulu) is also where most of the states military bases are situated. The number of veterans in Honolulu County is so high, even homelessness (a common problem on Oahu) began to effect returning veterans who were provided extra re-integration services. Honolulu County officials and residents have been working hard to combat veteran homelessness, which came to the public's attention around the same time as the APEC sweeps of the city's homeless.<sup>581</sup>

Homeless veterans have also been documented as possessing a number of mental issues which are said to directly contribute to their homelessness, the most prevalent being mental disability associated with Post Traumatic Stress Disorder (PTSD).<sup>582</sup> According to Richard McNally, and

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580 (Office of Public Affairs , 2015)

581 (Blair A. , 2015) (DMZ Hawaii: Aloha 'Aina Staff, 2011)

582 (Jakupcak, et al., 2007 (VPN)) (McNally & Frueh, 2013)

B.Christopher Frueh, two psychologists that studied the rates of PTSD and returning combat veterans,

“As of the late spring of 2012, 45% of veterans of the wars in Afghanistan and Iraq have applied for service-connected disability compensation for psychiatric and non-psychiatric medical problems and 28% of have already secured it as compared to 14% of other veterans. Moreover, the average number of medical conditions cited by each disability applicant has ranged from eight to nine, increasing to as many as 14 conditions per applicant during the past year. Importantly, these figures apply to all veterans of these two wars, not merely those with combat experience.”<sup>583</sup>

What my data appears to indicate is how after APEC security training shifts began at HoPD, there was an increase in violent encounters between HoPD officers and Honolulu residents (mostly veterans) suffering from some type of mental illness. Whether this increase was due to a change in public awareness from videos exposing police conduct, or an actual rise in violent police- citizen encounters, the effects have appeared to connect APEC ‘first-shooter’/ *warrior mindset* training strategies to violent police encounters with the mentally ill. One problem surrounding the current investigation process of police homicides or violent encounters into actual policing statistics is the fact all statistical reporting from HoPD ceased in 2011, when Chief Kealoha took charge and began APEC preparations. Statistical data did not begin to be released by HoPD again until they were mandated by the state legislature in 2016.<sup>584</sup> Although all statistical data reporting is voluntary for police nationwide, large police departments (like HoPD) have (since 1929) contributed their statistics to the FBI in order to develop an annual Uniform Crime Report (UCR). The UCR is designed to assist policy-makers, researchers, and police managers in adjusting police resources and developing police policy. Chief Kealoha stopped HoPD reporting in 2011, becoming the only large size police agency nationwide to not

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583 (McNally & Frueh, 2013, p. 520)

584 HB2671 was a legislative act passed in the Hawaii State Legislature, which mandates all county police agencies in Hawaii (including HoPD), to turn over all crime statistics to the State Attorney General, so that those numbers may be included in annual UCR statistics collected by the Department of Justice. From 2011 – 2015 Honolulu Police did not report any statistics. (Editorial Desk, 2015) In 2016, HoPD managers and administrators were forced to disclose data, and were accused several times of manipulating information by law-makers and police commissioners. (Kawano, 2016 (RKL)) (Kerr, 2016 (GSW))

turn over its data to the federal government or disclose it publicly.<sup>585</sup> This effectively allowed Chief Kealoha to frame himself and the department as successful when in-fact crime rates, police misconduct, and police-based homicides were rising.<sup>586</sup>

Another problematic variable in analyzing or measuring HoPD violence rates include the aforementioned fact HoPD managers are able to use ‘national security’ as a shield from inquiries. Although many of the details surrounding the exact training HoPD gets has been kept secret, what has been made clear through Chief Kealoha and other HoPD training liaisons, is how funding shifts after APEC have prioritized HoPD paramilitary police units (PPU’s) over those of community policing (known in Honolulu as weed-and-seed.) Evidence of these funds and policy shifts are evident by analyzing the differences in HoPD’s annual reports beginning in 2009, when weed-and-seed program information was replaced by information surrounding new counter-terror units.<sup>587</sup> In 2008 the HoPD annual report noted that PPU units in the Special Services Division and included, 1) Honolulu’s S.W.A.T., 2) traffic enforcement, 3) aviation, 4) bomb disposal, 5) Homeland Security, and 6) narcotics/vice (narco-vice) units. According to the Honolulu Annual Budget for 2008, Honolulu Police spending for the units listed as PPU was \$21,231,242.<sup>588</sup> That same year HoPD annual report reflects community policing programs as being integrated into patrol spending.<sup>589</sup> By 2011 (the start of APEC) the Honolulu Annual Budget for PPU units spiked to \$36,801,153, and increase of almost \$14 million dollars. The 2011 HoPD Annual Report, while highlighting PPU’s, no longer has any mention of community policing. By 2013 the police budget reporting structure was changed, away from transparency

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585 (Editorial Desk, 2015) (Wong, 2011)

586 (Cerball, 2016 (CRU)) (Vorsino, 2016 (CRU2))

587 (Honolulu Police Department, 2016 (AAR))

588 (Office of Accountability and Budgeting, 2016)

589 (Honolulu Police Department, 2016 (AR-2008))

of itemized departmental spending. The last real ability to publicly audit HoPD was just prior to the reporting method change, contained within the Honolulu Annual Budget in 2012.<sup>590</sup> Based on the data in the 2012 county budget report, police PPU's received \$26,416,154 of the total police budget, which was an increase over 2008 spending by approximately \$8 million dollars.<sup>591</sup>

After 2009, police annual reporting transitioned to the sole responsibility of HoPD administrators. Prior to that point, the Honolulu Police Commission (the external civilian-led oversight mechanism for HoPD) played a larger role in how and what information was included in the HoPD annual report. When this shift occurred HoPD annual reports began to omit important data including detailed statistics on budgeting or crime. From 2009 forward, the HoPD annual reports began to resemble propaganda pamphlets which contained only general information on police services, while simultaneously reporting only superfluous statistical data.<sup>592</sup> An example of this propaganda type reporting included noting the number of calls officers responded to without breaking down overall crime statistics for neighborhoods. Another strategy used by HoPD to avoid transparent reporting has been to fill the annual report with descriptions of what new equipment the department purchased without giving an overall financial accounting of the department's resources or spending. This piecemeal information also omits detailed outlines of the department's operational structure, which was typically included in the operational summaries of prior HoPD annual reports. What this all means is that when attempting to determine where funding and training is being directed, the police are no longer

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590 See Honolulu Annual Budgets 2012 – 2016.

591 The noted spike in PPU directed funds from 2010 to 2011 was due to a single infusion of funds dedicated to APEC preparation of over 9 million dollars. Removal of this one time APEC cash infusion from 2011's PPU unit's budget would reflect a constant and steady increase in police PPU dedicated funding beginning in 2008, and lasting until 2012.

592 (Honolulu Police Department, 2007 (AR- 2006)) (Honolulu Police Department, 2016 (AAR)) (The University of Hawaii, 2016 (AR - 2006 - 2008))

transparent and open with public information, instead working purposefully to withhold critical data needed to advise them or make policy recommendations.

What is decipherable from analyzing HoPD budget and annual reports are how prior to 2009 (when Chief Boisse Correa was in overseeing security preparations for APEC) the majority of HoPD's PPU's were organized within the department's Special Field Operations Bureau's Specialized Service Division. Once HoPD administrators began to prepare for APEC under Chief Kealoha in 2010, distinction in organizational structure are omitted from public publications. Currently, detailed operational information describing which police units belongs to which division's administrators is omitted from all annual reports. Clarifying which PPU units belong to particular divisions only allows the public to understand how the department is organized, but omits critical information such as how these units are used and what percentage of the department's total resources are committed to these strategies, and most importantly, how many officers continuously reinforce the *warrior mindset* in their training. What must also be realized when attempting to determine the gravity of what changes occurred from shifts in training for officers prior to APEC is how militarized training techniques previously reserved for S.W.A.T officers is no longer restricted to PPU units. Instead all police are trained to react to daily calls for police services using S.W.A.T. style thinking, otherwise referred to as the *warrior mindset*.

Once HoPD officers began training with Secret Service and military personnel for APEC it meant adapting to a militarized mindset necessary to carry out the coordinated terror response and domestic stability mission critical to APEC security. This effectively changed HoPD departmental training, which now includes integrating fear-based thinking into all police officers. Causing officer to 'fear the world' is a large component of the *warrior mindset*. Shifts towards

militarized policing strategies have had an enormous psychological effect on police officers' attitudes and how they interact with citizens, according to several studies conducted globally focused on analyzing the *warrior mindset* training.<sup>593</sup> HoPD homicide rates between officers and individuals suffering from PTSD, or other mental illness, seem to add supportive data to these studies.

The *warrior mentality* displayed by many local police officers would appear to explain why many who witness police interactions with confrontational individuals (including those with mental illness) perceive officers as rushing into action rather than demonstrating a willingness to retreat and regroup, or deescalate and escalating situation. Maintaining or gaining control over confrontational situations is stressed as a necessity to both police and soldiers early in their training. Control is stressed as being critical to survival in hostile environments. When adding unknown variables to this mindset (i.e. a moving vehicle) it becomes clear how militarized training of local police to see their environment as hostile at all times becomes problematic. This is especially so in domestic settings where biases are deeply entrenched into the social fabric, both with police and with who police serve.

There is already an ongoing legal debate over police shooting at a fleeing vehicle for non-violent felonies, commonly known as the fleeing felon rule,<sup>594</sup> which has caused many progressive police managers to implement policies and training which dissuades officers from the practice. Since *Tennessee vs. Garner* (1985) established the Fleeing Felon Doctrine<sup>595</sup> many police

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593 (Murgado, 2012) (Stoughton, 2015)

594 I received training both by the Metro Dade Police Department, and the Miami-Dade Police Academy from 1992 -1997, and the Los Medanos Police Academy and the Contra Costa County Sheriff's office from 1998-2002 that stressed and taught me why shooting into a moving vehicle was both a last resort, and a legal liability that I would automatically occur because of the ability of me to withdraw (move) and pursue with advanced technology. It was discouraged and alternative solutions were stressed and trained on.

595 (Dempsey & Forst, 2016, pp. 152-154) (U.S. Supreme Court, 1985)

managers limit or set strict policies around pursuing or engaging fleeing vehicles. These limits are placed on officers' due to the extreme danger associated with these situations, both to the officer and the public. Progressive policing strategies encourage officers to deliberately slow their interactions with citizens, and emphasize deescalating any confrontation. This includes using new technology (i.e. helicopters, drones, CCTV) to monitor suspects rather than using human assets who may escalate already confrontational suspects.<sup>596</sup> Despite these de-escalation tactics being the direction of progressive police agencies nationwide, Chief Kealoha and his staff have decided to invest in first-shooter thinking and training. Since the shift towards first-shooter training, several HoPD officers have been involved in police-based homicides involving mentally ill residents' and fleeing vehicles, demonstrative of what results from an intersection between the *warrior mindset*, mental illness, and a fleeing vehicle.

As previously mentioned, while progressive police agencies nationally have recognized the interconnected problems between militarized police training emphasizing the warrior mentality and the Fleeing Felon Doctrine, and have begun re-training officers in de-escalation techniques, HoPD has not. Chief Kealoha and HoPD managers have instead continuously attempted to convince local media and Honolulu residents how expanding officers ability to shoot fleeing suspects is necessary for public safety, and should be expanded to include all misdemeanor traffic crimes (e.g. Gregory Gordon and Richard Nelson,)<sup>597</sup> all non-violent property crimes where individuals are in vehicles (e.g. Stephen Dinnan and James Pickard Jr.)<sup>598</sup> and anyone else

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596 (Koebler, 2014)

597 (KHON2, 2014 (Nelson)) (Periera, 2013)

598 (Daysog, 2013 (FFD)) (Yoro, 2014)

who failed to instantly comply with HoPD officers commands (e.g. Sheldon Haleck, and Victor Rivera.)<sup>599</sup>

One reason many experts are critical of the *warrior mindset* is due to the fact ‘first shooter’ based strategies limit the types responses to aggressive behavior officers are trained for. Officers trained in first-shooter approaches to policing are forced to approach confrontational encounters with limited de-escalation tools, often jumping from talking to shooting and bypassing the police baton, chemical spray, Taser deployment, ground-fighting, or simply retreating. To emphasize this fact, National Public Radio (NPR) aired a report highlighting policy changes within the Los Angeles Sheriff’s Office resulting from the escalating number of police homicides involving mentally ill individuals who used motor vehicles to flee from police.<sup>600</sup> According to the report, the Los Angeles Sheriff’s Office is adjusting policy and training for officers to encourage de-escalation based on the idea that mentally ill individuals are acting out of fear and attempting to escape rather than “drive at” police. Police managers at the Los Angeles Sheriff’s Office have begun to adjust departmental policy discouraging officers from resorting to military style reactionary measures when confronting moving vehicles.<sup>601</sup> One reason police managers have chosen to turn away from ‘first shooter’ approaches within training is due to studies proving how U.S. military personnel who are engaged in law enforcement outside of the US, and encounter moving vehicles, often use deadly force to resolve the situation rather than attempting less-than-lethal options to resolve the incident.<sup>602</sup> According to research into military checkpoint shootings in Iraq resulting which include a fatality involving indigenous individuals in vehicles who fail to comply (for whatever reason, justified or not) with U.S. service personnel, military-

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599 (Advertiser Staff, 2009) (Lind, 2014) (Vorsino, 2009)

600 (Gilbertson, 2016)

601 Ibid

602 (Steele, 2010)



based homicides resulting from misunderstandings and miscommunications are extremely common.<sup>603</sup> Despite many police agencies reprioritizing de-escalation techniques after understanding the research, Chief Kealoha and HoPD officials appear content on allowing mentally ill residents and citizens to continue to be ‘gunned-down’ by HoPD officers who are being encouraged to shoot any non-compliant individuals.

One example of a combat-veteran with PTSD who had survived Afghanistan deployment only to be killed by HoPD officers after APEC re-training was U.S. Army Specialist Gregory Gordon. Spc. Gordon was a soldier who had just returned from serving a combat tour in Afghanistan. His family noted that he “came back from war a different person.”<sup>604</sup> The family suspected he had PTSD, and was self-medicating with alcohol (a common problem with soldiers suffering from PTSD.)<sup>605</sup> On January 14, 2013, Spc. Gordon was out drinking in Waikiki when police attempted to stop his car. Spc. Gordon refused to pull over and was consequently shot and killed by police as he attempted to flee. Important to this shooting was the fact amateur video shows how HoPD officers had used their police vehicles to stop and contain Gordon by boxing his truck in with police cruisers, and did not have to escalate the confrontation at that point. Once Gordon was already contained and was unable to escape, HoPD officers made the decision to rush towards Gordon’s truck and shoot him in the chest through the window rather than staying safely behind their cars and attempting to negotiate his surrender, then said it was Gordon who posed a threat by “driving at officers.”<sup>606</sup>

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603 (Steele, 2010)

604 (Periera, 2013)

605 (Leeies, Paguara, Sareen, & Bolton, 2010)

606 (KITV, 2014)

The Gordon homicide demonstrates a number of problems, and appears as yet another incident where local media have aided police by quickly repeating police narratives (unchallenged) and blaming the victim (in similar fashion how they repeated Kealoha's claims during Cachola.) This was evident when local Honolulu media reports began to characterize Gordon as being on a '*rampage*' and characterized Gordon as using his car as a deadly weapon forcing police to shoot him in order to "protect lives", rather than focusing on the witness who stated he appeared scared and was trying to flee and it was the police who seemed aggressive.<sup>607</sup> Local media reports following the incident focused blame entirely on Specialist Gordon rather than bothering to evaluate the actions of the officer who shot him or the video which appears to show officers as the aggressors.<sup>608</sup> It wasn't until months later, after the community had long forgotten the incident, that local media began dissecting the amateur video and explaining how the video demonstrated that the police accounts about the details of the homicide were problematic.<sup>609</sup> By then the case had been closed, and no officers were held accountable for the incident or the homicide of Iraqi war-veteran Specialist Gregory Gordon.

What was also problematic within these early victim-blaming media reports was how social media video directly countered reporters characterization of the incident, and how reporters were skewing their coverage towards making police the victims rather than maintaining a neutral or critical lens.<sup>610</sup> While the media did not release actual video and instead smeared Gordon's image within reports, unedited and un-narrated video posted on social media clearly showed HoPD officers stopping Gordon's truck by boxing it in using patrol cars, and then using military

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607 (Scheuring & Wharton, 2013) (Pang & Kakesako, 2013)

608 (KHON2, 2014 (Nelson)) (Kawano & Gutierrez, 2014)

609 (KITV, 2014)

610 Ibid

blitz techniques to kill Gordon allowing him no opportunity to surrender prior to being shot.<sup>611</sup>

These blitz-style control techniques coincide with first-shooter responses to confrontational suspects and are demonstrative of how *the Warrior Mindset* leads officers to rush to handle confrontation rather than slowing down and considering multiple strategies (as was taught within community-policing). Spc. Gordon was not an isolated homicide involving HoPD and individuals (or veterans) with mental illnesses and moving vehicles wherein the individuals was attempting to flee only to be killed by police claiming they “drove towards them.” Another example where this exact scenario occurred was the homicide of Richard Nelson.<sup>612</sup>

Although not a soldier suffering from PTSD, Richard Nelson was a Honolulu resident who possessed a long criminal history wherein the court had deemed him as needing psychiatric care and suffered from mental disability. According to investigate reports following his death, the psychological services and screening ordered by the courts never took place, instead allowing Nelson to continue to await multiple criminal trials outside of custody and to continuously self-medicate with alcohol.<sup>613</sup> On the evening of July 30, 2014, HoPD officials stated Nelson was driving under the influence of alcohol when he approached a traffic accident in the busy tourist area of Honolulu known as Waikiki. Official HoPD reports noted how HoPD officers who had responded to the traffic accident noticed Nelson as he drove towards them causing them to approach his vehicle. There is no explanation of why the officers noticed him, or how they distinguished him from other motorists approaching the traffic scene, although sources within the department told me how he had encountered officers earlier that evening and was well known to them as not having a license or authorization to operate a motor vehicle. According to HoPD

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611 (KITV, 2014)

612 (The Honolulu Star Advertiser Staff, 2015)

613 (KHON2, 2014 (Nelson))

statements, the officer handling the accident noticed Nelson approaching the scene and suspected him of being intoxicated. The officer attempted to stop him, at which point Nelson “drove at him” forcing him to shoot Nelson as he tried to flee.<sup>614</sup>

However, similarly to the Gordon homicide, an amateur video which captured the incident shows where police actions contradict the official police narrative and description of what transpired. Amateur video footage aired by the media captured the (still publicly unidentified) HoPD officer attempting to reach into Nelson’s vehicle through the driver’s window, causing Nelson to panic and begin to make a U-turn to flee. The video also shows where the officer withdrew his hand from Nelson’s vehicle standing to the side of his driver’s window and reached for his gun as Nelson attempts to drive off. The video then captures the HoPD officer running behind Nelson’s vehicle with his gun drawn as if in a Hollywood movie, according to witnesses.<sup>615</sup> At one point during this scene, Nelson stops as he is surrounded by tourists and other motorists stuck in accident traffic. The video shows the HoPD officer catching up to Nelson’s vehicle, and stopping directly adjacent to Nelson’s driver’s side window (not in front of the vehicle where he would have had to be in order for Nelson to “drive at him”). The HoPD officer then points his gun into Nelson’s window and shoots Nelson in the chest, killing him.<sup>616</sup> This is not the finale, as the video shows where this police action of killing Nelson while still behind the wheel of his car results in the car (with Nelson already dead) speeding (uncontrollably) down the tourist filled streets, before striking a wall and coming to a stop.<sup>617</sup>

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614 (KHON2, 2014 (Nelson))

615 Ibid

616 (KHON2, 2014 (Nelson)) (KITV4, 2014)

617 Ibid

The movie image of the ‘warrior cop’ standing in the middle of the street and facing down a charging car to shoot the suspect has been proven to be both stupid and dangerous, which is why it is against almost all progressive police agencies policies, and not part of most police department’s training. The act of police shooting into vehicles has been shown to place the department, the governing body of the jurisdiction police operate within, and the individual officers in a situation of questionable liability in addition to being a violation of the individual’s civil rights. Similar to the Nelson and Gordon homicides, media’s rush to sensationalize again began with skewed reporting which downplayed witness who countered police, and highlighted official accounts. In one instance witnesses directly challenged HoPD officers accounts in the Nelson shooting, stating how Nelson was attempting to flee and not use the car as a weapon.<sup>618</sup> As previously mentioned, like Los Angeles’s Sheriff’s officers, most police agencies teach officers to avoid placing themselves into this confrontational position by stepping out of the way of the moving vehicle, thus allowing them to take action when it is safer to do so.

When I was a police officer, this lesson of why shooting into a moving vehicle is a poor choice was made clear after Miami residents rioted following City of Miami Officer Lozano shooting in 1989<sup>619</sup> which mirrored both the Gordon and Nelson situations. During the Lozano incident, Officer Lozano had the opportunity to step out of the way of a speeding African-American motorist, but chose to stand in the street and hold his ground, eventually shooting and killing him.<sup>620</sup> Again, although shooting at, or into, a moving vehicle is discouraged nationwide by a plethora of experts which include; police managers, criminologist, criminal justice experts, legal experts, and civil rights organizations,<sup>621</sup> Chief Kealoha and his staff have chosen instead to

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618 (Kawano & Gutierrez, 2014) (KHON2, 2014 (Nelson))

619 (Schmalz, 1989)

620 Ibid

621 (Swaine, Lartey, & Laughland, 2015)

defend and expand this method of policing which has directly increased the number of police-based homicides involving the mentally ill.<sup>622</sup> These are not the only examples wherein the mentally disabled and police-violence intersect.

The Gordon and Nelson homicides, wherein HoPD officers rush to ‘control’ the situation rather than retreating to safety and using technology, are just two pieces of evidence demonstrating how HoPD officers trained with the *warrior mentality* rush to confront mentally ill suspects rather than choosing to use time and distance as a de-escalation technique. Despite these facts, Chief Kealoha and HoPD managers continued to assert how first-shooter/*warrior mindset* training is beneficial for Honolulu residents, and HoPD officers. As was outlined above, ample evidence exists to support the fact that police trained with the *warrior mindset* are particularly at risk into developing a skewed and misguided perception of reality, especially when encountering individuals with mental illness. Studies involving police using the *warrior mindset* found how officer’s attitudes about the mentally ill are subject to preconceived perceptions which are often misguided or flat-out wrong.<sup>623</sup> According to Modell and Cropp,

“When the perceptions of the police are different from those in the society they serve, the result is conflicting attitudes, and both sides may develop apprehension, fear, and anxiety towards each other.”<sup>624</sup>

The truth is, studies into individuals with mental illness have shown how there are perceptual differences of reality, environment, and danger which exist within the minds of people suffering from mental disabilities verses those of “normal” citizens.<sup>625</sup> These differences have, in some situations, led to police encounters where officers misinterpret the actions of mentally ill

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622 (KITV4, 2014) (Kawano & Gutierrez, 2014)

623 (Modell & Cropp, 2007, p. 60)

624 (Ibid, p. 62)

625 (National Alliance on Mental Illness, 2016)

individuals as being erratic or dangerous, when this was never the mentally ill individual's intent.<sup>626</sup> This is especially significant when factoring in the growing number of individuals who are diagnosed as having some form of mental disability resulting from PTSD, such as combat veterans or sexual-assault survivors (as was previously described). According to the National Alliance for Mental Illness, they define mental illness as:

"A mental illness is a condition that affects a person's thinking, feeling or mood. Such conditions may affect someone's ability to relate to others and function each day. Each person will have different experiences, even people with the same diagnosis."<sup>627</sup>

Given that police and individuals suffering from mental illness often have different perceptions of the same environment police may interpret mentally ill individuals' actions as dangerous, and thus engage deadly use-of-force options when unnecessary or not appropriate.<sup>628</sup> This again is extremely significant for HoPD officers given the high number of soldiers returning from overseas deployment that are experiencing PTSD,<sup>629</sup> and which cycle through Honolulu. If HoPD officers continue to be trained using militarized strategies which encourage the warrior mindset, then elevated violence levels involving people with mental disabilities will most likely occur. An example of where HoPD managers appear oblivious as to why these elevated levels of violence are occurring with such frequency came during a live radio show on Hawaii Public Radio. During a discussion with the show's moderator, HoPD Captain Rade Vanic (who is, "assigned to the Chief's office") emphasized how each officer is given training aimed at providing them de-escalation tools as part of their interpersonal communication tactics. When questioned about the details of this supposed training by Hawaii Public Radio (HPR) host Beth-Ann Kozlovich, who asked specifically what type of training and how long was this "de-

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626 (Morabito & Socia, 2015, p. 256)

627 (National Alliance on Mental Illness, 2016)

628 (Modell & Cropp, 2007, pp. 60-61)

629 (Fischer, 2015)

escalation training” that prepares them to control their anger during public contact was, Capt. Vanic’s replied,

“You know, I don’t know enough to speak on the topic as to how much training is dedicated to de-escalation training...um...but I do know that our training in general overall lasts six and a half months once a recruit enters into the training academy....”<sup>630</sup>

This inability of HoPD’s command staff to both explain and understand the complex nuances of how officers are trained and equipped psychologically is not unique to Honolulu, but begins to explain why allowing training to remain solely in the hands of police administrators rather than situating training strategies outside agencies is problematic.<sup>631</sup> This is also the reason why most states (Hawaii being the lone exception) have state-level Standard, Training, and Hiring boards designed to oversee, license, set curriculums, assess training, and ensure the backgrounds of any person who is sworn with police powers within their state.<sup>632</sup> Police managers and executives are not experts in scholarship, which is why situating these critical elements outside of the agency, and into the hands of civilian experts is an industry standard. This is why critical partnerships between police and correctional managers, legal representatives, and criminal justice/criminological scholars should be the minimal standard of inclusion for all future policy development or systemic model policy recommendations, nationwide, and where intersectionality again provided space from which to conceptualize a new educational structure for Hawaii which could address ongoing violence against multiple interlocking systems of oppression simultaneously. This is also where Hawaii legislators who continuously have stalled, killed, and obstructed efforts to create such an agency within Hawaii can be accused of directly contributing to elevated police-based violence and jeopardizing public safety for the sake of

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630 (Espero, Hunger, & Vanic, 2016, pp. 21:42 - 21:46)

631 (Grube, 2013 (WO)) (Grube, 2015 (NB)) (Kerr, 2016 (GSW)) (Lincoln, 2016)

632 (Goldman, 2012) (Grube, 2015 (NB)) (Grube, 2013 (WO)) This lack of a state board will be discussed in more detail in Chapter 5.



being politically popular with the police union. As was demonstrated within Capt. Vanic's statement, following APEC's training shifts HoPD officers appear to spend less time training how to de-escalate violent encounters involving confrontational citizens than they do learning how to be aggressively confrontational and using deadly force.<sup>633</sup> Police officers whose training does not emphasize de-escalation techniques lack important tools involving how to approach and deal with confrontational mentally ill individuals other than to resort to aggressive control-based strategies or deadly force. Three more examples of this drive by HoPD officers to escalate force rather than use non-violent control techniques when confronting mentally ill individuals were the cases of Victor Rivera, Jamie Kalani Rice, and Sheldon Haleck. All three men were accused by HoPD officers of being non-compliant and resistant during their arrest ultimately ending with officers beating and using chemical weapons on non-combative suspects,<sup>634</sup> or killing them.<sup>635</sup>

Victor Rivera was a Honolulu resident who was diagnosed as a schizophrenic in 2010. As part of Rivera's condition, his family relied on HoPD's assistance in persuading Rivera to accept help and medical assistance during crisis moments where he was 'acting-out' or was violent. As is common with many individuals suffering from mental disabilities, Rivera's condition was exacerbated due to a combination of self-medicating and not taking prescribed medicines. According to Rivera's family, HoPD officers were aware of Rivera and his condition as they had been called and had aided him successfully on several previous occasions. The family told reporters how HoPD officers were very aware of Rivera's condition, aiding him only days before the tragic encounter. Rivera's family went on to say how historically HoPD officers had been very helpful, and how Rivera actually admired police. Despite a history of positive encounters

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633 This according to Lt. Leon Contee who retired after teaching and running HoPD's Training Academy, and who assessed HoPD tactics following the Gordon and Nelson homicides. (Contee, 2015)

634 (Kerr, 2015 (Seal))

635 (Grube N. , 2015 (HKVR)) (Sagapolutele, 2015 (SDC))

with police prior to APEC training, Rivera's life was cut short following an encounter with HoPD officers who were re-trained using first-shooter training.

On December 14, 2013 Rivera's brother called police asking them to respond to the residence to take Victor to the hospital due to depression.<sup>636</sup> According to family members, when HoPD officers arrived that day, instead of using their historically successful de-escalation techniques, officers rushed to confront Victor in the back yard of the family home. With the family pleading for HoPD officers to de-escalate, officers instead chastised the family telling them to 'calm-down'. Victor, reacting to officers, faced off with police armed with a mango pruning pole stating he did not want to go with them. Victor's brother made clear to reporters how it was HoPD officers who escalated the confrontation, which eventually led to them shooting Victor with a Taser before shooting him nine times with their handguns, killing him instantly.<sup>637</sup> Victor's brother told reporters how HoPD officers acted quickly and without hesitation to Victor's non-compliance by shooting him with such speed as to not allow him time to surrender, as was the case with Gordon and Nelson.

Unfortunately, Rivera is not the only individual who suffered from mental illness and was killed during encounters with HoPD officers who Chief Kealoha cleared of any wrongdoing. Another high-profile homicide involving HoPD officers and mentally ill military veterans (similar to Spc. Gordon) was the police-based homicide of Sheldon Haleck. The Haleck homicide is an important case study as it demonstrates an intersectional point between 1) veterans with PTSD who are self-medicating, 2) HoPD officers using first-shooter/ warrior mindset strategies of engagement, and 3) homelessness. The Haleck case is also important to a later discussion

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636 (Grube N. , 2015 (HKVR))

637 (Grube, 2015 (HKVR))

involving civil litigation as a method of police oversight, as it has resulted in a federal civil rights action being brought against Chief Kealoha and HoPD by American Samoa Police Commissioner William Haleck. The fact Sheldon Haleck was son of Commissioner Haleck, who was outraged at the conduct of Chief Kealoha, the Honolulu Police Commission, and Prosecutor Kaneshiro to the point of filing a federal lawsuit over his son's death is also very telling at how poorly trained and equipped to deal with the mentally ill HoPD appears to be. According to American Samoa Police Commissioner Haleck, his son (Sheldon) was a U.S military veteran who had returned from overseas duty with mental issues (most probably PTSD.) According to the Commissioner, as a result of Sheldon's condition he began self-medicating,<sup>638</sup> which as previously noted is a common problem with military veterans suffering from PTSD, those with mental illness,<sup>639</sup> and the homeless.<sup>640</sup> According to media reports,

"Sheldon Haleck was honorably discharged from the Hawaii Air National Guard after 15 years of service, according to family attorneys. He suffered from mental illness and had a history of drug use."<sup>641</sup>

On the evening of March 16<sup>th</sup>, 2015, Sheldon Haleck (homeless and self-medicating) began wandering into the streets of Honolulu in front of the Queen's palace (a major tourist landmark across the street from city hall.) While qualifying as a crime, jay-walking is certainly not a crime anyone would expect police to kill someone over. Despite being involved in a non-violent crime, responding HoPD officers decided to confront Haleck who was reported as being in an altered state of consciousness and 'non-compliant' towards police<sup>642</sup> (again a common problem with PTSD and the mentally ill)<sup>643</sup> rather than to contain him and attempt to de-escalate. HoPD

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638 (Grube N. , 2015 (SMI))

639 (Jakupcak, et al., 2010 (VSM))

640 (National Coalition for the Homeless, 2009)

641 (Grube N. , 2015 (SMI))

642 Ibid

643 (Jakupcak, et al., 2007 (VPN))

officers made a choice to blitz-rush Haleck using pepper spray and Tasers before ‘gang tackling’ him onto the pavement,<sup>644</sup> all of which was video recorded by their Taser cameras. According to journalist Nick Grube who investigated the incident, the captured video of the incident (withheld from the public) showed Haleck screaming in pain once Tasered and sprayed, but was never violently combative. After Grube was finally able to get ahold of the police video, the images on the video appeared (once again) to counter official HoPD accounts of what transpired during the incident wherein HoPD officers justified their actions due to Haleck being violent and posing a threat to officer’s safety. According to reports,

One video showed Haleck holding up his hands and backing away as officers told him to get on the sidewalk. Another showed him face down on the ground screaming as he was handcuffed and leg shackled.”<sup>645</sup>

During the struggle to arrest Haleck, official HoPD reports note simply how Haleck mysteriously ‘*somehow*’ ended up dead. Because the Taser video was not immediately available to counter police administrators, Chief Kealoha and HoPD managers were once again able to quickly steer local journalists into defending officers’ actions by portraying Haleck as: *dangerous, combative, erratic, and unstoppable*.<sup>646</sup> Honolulu media (in similar fashion to Spc. Gordon and Nelson) also aided HoPD officials by publicly demonizing Haleck characterizing him as both a dangerous criminal and homeless within their reports immediately following the event.<sup>647</sup> Grube’s analysis of the Taser video also revealed how the officer’s responses and tactics appear to be consistent with first-shooter/*warrior mindset* type training tactics. This urgency to engage Haleck by the responding HoPD officers appear to have been triggered by the officer’s training brought on by Haleck’s non-compliance.<sup>648</sup> As mentioned several times previously, non-

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644 (Grube N. , 2015 (SHL))

645 Ibid

646 (Namata & Remadna, 2015) (Davis C. , 2015 (AYK))

647 Ibid

648 (Engel, 2015) (Morabito & Socia, 2015)

compliance to authority figures is a common issue among individuals who suffer from Post-Traumatic Stress Disorder (PTSD),<sup>649</sup> and why this case is significant given the demographics of Honolulu. Because Haleck's homelessness was also made into an issue by police and the media following his homicide, it must also be considered a variable which contributed to how HoPD officers perceived and then mishandled the scenario.<sup>650</sup> According to the Institute of Medicine's Committee on Health Care for Homeless People,

"Personality disorders should not be seen primarily as a consequence of homelessness. Rather, because they impair a person's ability to cope with the demands of life and the expectations of society, they may contribute to the factors that cause certain people to become homeless. Other psychiatric illnesses, such as the anxiety and phobic disorders and milder depressive reactions, can either be contributing factors in causing homelessness or, more commonly, result from the stress of homelessness. Becoming homeless is a psychologically traumatic event that commonly is accompanied by symptoms of anxiety and depression, sleeplessness, and loss of appetite. Sometimes, homeless people try to "medicate" these feelings away with alcohol or drugs."<sup>651</sup>

Nationally police managers have begun to demonstrate a willingness to acknowledge how officers who are not properly trained to cope with subjects suffering from mental illness, and who encounter veterans coping with mental illness, is a problematic coupling throughout law enforcement.<sup>652</sup> Despite the Haleck homicide representing almost every reason why maintaining first-shooter/ *warrior mindset* training is problematic in Honolulu, HoPD managers appear intent on disagreeing and not adjusting training. The fact Sheldon Haleck's was homeless should not be considered to be an outlier or uncommon in Honolulu where housing prices are among the most expensive in the country. Haleck faced the same problems many other Honolulu residence are forced to grapple with which combine five problematic variables including: 1) being a military veteran, 2) self-medication 3) suffering from some form of mental health disorders, 4) homeless, and 5) a deeply seeded unconscious hostility towards authority figures. Given the fact

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649 (Bullock, Cifu, Gordon, & Grimes, 2014) (Jakupcak, et al., 2007 (VPN))

650 (Institute of Medicine (US) Committee on Health Care for Homeless People., 1988)

651 Ibid

652 (Stephen F. Curran, Allen, Clark, Craig, & Gardner, 2016)

these 5 variables are not an uncommon cocktail; the possibility of future deadly encounters involving police is high.

Finally, the Sheldon Haleck homicide is important because it deals with non-compliance and the *warrior mindset*. To clarify, non-compliance includes those individuals who refuse to comply with police instructions for any given reason. What this means is non-compliance encompasses both individuals who refuse to cooperate with police based upon police decisions of free will, as well as those who are unable to be compliant due to mental illness. According to studies, both sets of non-compliant individuals are seen similarly by police trained with the *warrior mindset*: as ‘the enemy.’<sup>653</sup> According to Seth Stoughton in the Harvard Law Review,

“From the warrior perspective, the solution is simple: the people with whom officers interact must accede, respecting officer’s authority by doing what they are told. The failure to comply is confirmation that the individual is an enemy for the Warrior to vanquish, physically if necessary. And this creates avoidable violence.”<sup>654</sup>

Studies have also shown how some police officers who come to see individuals as ‘the enemy’ may combine this thinking with their utilitarian values in order to rationalize violence. This combination of utilitarian thinking and warrior values can best be translated as officers feeling as if, “*well...they had it coming to them.*” This thinking brings me to my final case demonstrating the size of the problem involving mentally ill individuals who were killed after coming in contact with HoPD officers, the case of Luis Lopez.

Luis Lopez’s case is important to my analysis as it is demonstrative of another case where officers should have been held to account for an in-custody death, but were not,<sup>655</sup> and appears intersectional to another police-race & gender violence based case where officers were held

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653 (Stephen F. Curran, Allen, Clark, Craig, & Gardner, 2016)

654 (Stoughton, 2015)

655 (Daysog, 2013 (MDS)) (Daysog, 2015 (WGO))

accountable; the Sandra Bland case in Texas.<sup>656</sup> The Lopez case appears to also be intersectional as it involves non-compliances, the *warrior mindset*, and an alleged mentally ill suspect.

According to Lopez's family, Luis was pulled over and arrested by HoPD for DUI in January (2012).<sup>657</sup> After being arrested, police say Lopez became non-compliant with arresting officers. Although there were injuries found on Lopez by the coroner, Lopez was not taken to the hospital by police.<sup>658</sup> According to the family, Lopez was taken to a HoPD holding cell instead, where Lopez's family suspect he was subjected to police-based violence in the form of *jailhouse retribution* as pay-back for his earlier non-compliant behavior.<sup>659</sup> Lopez's family hypothesizes it was during this beating things went 'too far' and police became carried away resulting in Lopez's death.<sup>660</sup> However, HoPD officials deny these allegations stating Lopez was not beaten and instead committed suicide with a t-shirt in his cell (similarly to the claims made about Sandra Bland).<sup>661</sup> Questions surrounding HoPD officers accounts of what transpired arise from three questionable pieces of evidence and explanations given by HoPD officials. Firstly, the T-Shirt HoPD officers say Lopez used to hang himself was not worn or owned by Lopez according to the family and police cannot explain how the shirt came into his possession or where the shirt he wore the evening of January 7<sup>th</sup> disappeared to. Secondly the mysterious injuries suffered by Lopez were not documented in any report, thus giving rise to questions as to when and how the injuries occurred. Lastly, according to Luis's wife, the couple had just had a baby making him a new father which he was celebrating. This final point is important as it directly casts doubt on police claims that Lopez must have been depressed (and thereby mentally ill) resulting in him

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656 (Hassan & Yan, 2016)

657 (Daysog, 2013 (MDS))

658 Ibid

659 Ibid

660 Ibid

661 Ibid

committing suicide.<sup>662</sup> The Lopez homicide is damning to how HoPD are trained to handle mental illness on two levels simultaneously. If HoPD officers are to be believed and their claims that Lopez was depressed and suicidal are true, then officers clearly mishandled his custody which allowed a mentally ill suspect in custody to kill himself. If, however, on the other hand Lopez family's allegations are true and HoPD officers saw Lopez as the enemy after he was non-compliant, resulting in them seeking vindictive retribution over his non-compliance, then this case represents the worst form of byproduct stemming from long-term exposure to first-shooter type training; police-based criminal homicide. This is why in either event, police should have been held accountable for mishandling his custody by HoPD managers.

Studies have proven how there exists a correlation between long term exposure to constantly being immersed in the warrior mindset and elevated levels of violent criminal behavior in military soldiers, which includes criminal homicide,<sup>663</sup> and could explain why so many HoPD officers have displayed unwarranted criminal violence post APEC training. According to Brock Hunter, a combat veteran and attorney that aided in PTSD research for the National Drug Court Institute, a research partner for the Department of Justice,

'The most recent and definitive tie between combat trauma and criminal behavior comes from the military, itself. In 2009, following a highly-publicized wave of homicides and other violent crimes committed by recently-returning combat soldiers on and around Fort Carson, Colorado, the Army commissioned a study called the Epidemiological Consultation, or EPICON, for short. 48 Epidemiology is the branch of medicine that seeks to study the factors affecting the health and illness of entire populations. Most of the time, epidemiologists focus on infectious disease, but increasingly the Army has used its experts to look at behavioral health issues. A team of 24 physicians and Ph.D.'s from Walter Reed Institute of Research descended on Ft. Carson, studying soldiers who had acted out violently, looking for common factors. The EPICON team, first, found that violent crime among the soldiers at Ft. Carson was well outside normal levels of crime in civilian society. The murder rate for Ft. Carson had doubled since the start of the Iraq war. Rape arrests had tripled and stood at nearly twice the rate of other Army posts.'<sup>664</sup>

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662 (Daysog, EXCLUSIVE: Family sues over police cellblock death, 2013 (MDS))

663 (Hunter, 2012)

664 (Hunter, 2012, p. 12)



This research bridges soldier's conduct to Stoughton's research of how local police who are trained to use the warrior mentality as part of their patrol strategies begin to view the citizens they serve as the enemy. This would explain why some HoPD officers have been criminally charged or captured on video being violent and hostile towards non-compliant, yet non-combative individuals (e.g. Seti Jr,<sup>665</sup> Morre,<sup>666</sup> Wang,<sup>667</sup> and Oliva.)<sup>668</sup> The allegations that HoPD officers used violence against Luis as a form of retribution, and Sandra Bland's case which caused Texas law enforcement to overhaul their policies both cast doubt on HoPD officers' credibility involving how well they handle mentally ill suicidal suspects once in custody. Another factor casting public doubt on the credibility of HoPD officers (and police in general) is a secrecy surrounding statistical data surrounding police-based homicides. This lack of disclosure was pointed to as problematic recently by the Director of the Federal Bureau of Investigation (FBI), James Comey who spoke about this lack of transparency in both police reporting and internal investigating involving police-based homicides.

According to FBI Director Comey who was speaking at a gathering of police executives in late 2016, facts surrounding (and numbers on) police homicides nationwide are not known. This (like UCR statistics) is due to the voluntary nature surrounding whether police keep track of the people who die as a result of encounters with them.<sup>669</sup> Although an exact number of police officers killed while on-duty is always handy for political usage by police, the numbers of individuals killed by them is not. Reports quoting the FBI Director noted,

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665 (Daysog, 2015 (VTD))

666 (Kawano, 2015 (Morre))

667 (D'Angelo, 2015)

668 (Matsuoka, 2013)

669 (Berman, 2016)

“Comey also said that Americans “actually have no idea whether the number of black people or brown people or white people being shot by police” has gone up or down, or if any group is more likely to be shot by police, given the incomplete data available.”<sup>670</sup>

Not mandating police to be accountable is a common theme among Hawaiian (and national) legislators who often concede any type of mandate on police when pressured by police unions. With no legislative will to mandate police conduct nationwide, the likelihood police integrity will continue to be questioned nationwide is high. In Honolulu this appears especially true given HoPD administrators recent conduct of being deceptive during oversight and accountability hearings asking for their count on rape kit processing.<sup>671</sup> As previously discussed, evidence of HoPD managers and administrators not fully disclosing or misconstruing statistical data to lawmakers and oversight agents appears systemic based on Chief Kealoha and his managers willingness to withhold UCR statistics, rape kits numbers, and the number of individuals killed by police. The most recent evidence of Chief Kealoha and HoPD managers being less than completely transparent came during legislative inquiries into the department’s handling of rape kits and becomes in intersectional space between police integrity, violence against women, and violence against the mentally ill. Because Honolulu Police Commissioner Loretta Sheehan<sup>672</sup> has pointed to HoPD manager’s willingness to be deceptive during a recent commission inquiry into the police processing of rape kits, many wonder what else he has been willing to be deceptive about. According to Commissioner Sheehan,

“It’s disappointing, I feel that they [HoPD managers and Chief Kealoha] were less than candid with the legislature and less than candid with the police commission...What’s really concerning to me is this, if they’re willing to do this word play on the issue of what constitutes a backlog, then I’m concerned that they’re doing word play on cases that were discharged”<sup>673</sup>

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670 (Berman, 2016)

671 (Kawano, 2016 (RKL))

672 Commissioner Sheehan was appointed to the Honolulu Police Commission by Mayor Caldwell several months into his re-election campaign for Mayor in 2016, and to many residents represented both an admission of systemic dysfunction and an attempted political solution. Commissioner Sheehan will be discussed in detail in Chapter 4.

673 (Kawano, 2016 (RKL))

HoPD managers being less than completely honest with police commissioners only adds to the public's already negative perception of police integrity following the Lopez's family's allegations, and would appear to give more merit to Lopez's family's claims, and the claims made by women accusing HoPD officers of sexual assault, exploitation, and domestic-battery. Given the evidence of how HoPD shifts towards militarization and 'first-shooter' strategies are interconnected to increases in deadly police encounters, violence against women, domestic-violence, and people with mental illness, it is illogical for HoPD's to make continued investments in militarized training which subjects officers to the *warrior mentality*.

## CHAPTER 4

### PAVING NEW PATHWAYS TO OVERSIGHT REFORM

#### 4.1 Introduction to Reforming Police Oversight in Hawaii

Before I begin my discussion surrounding how reform policy was proposed and advanced, and why police based gender and ability based violence in Honolulu has been the catalyst for reform rather than race, it must be noted there are clear differences in the dynamics between HoPD officers and Honolulu residents to those of other communities elsewhere in the United States. As alluded to in previous chapters, these differences places Honolulu in a category not shared by other large cities in the United States, with the exception of McAllen, TX.,<sup>674</sup> and partially are due to the composition of HoPD officers to that of the communities they serve. These differences are also central to my specific analysis of what has motivated police reformers in Honolulu and the evidence proving police-based racial violence never entered into legislators' discourses surrounding their motivations to reform police oversight. This also addresses a bigger national question of whether simply adding more African-American police officers to communities of color would solve all police-based violence, or likewise simply changing the gender demographics of departments would lessen police-based gender violence.

Firstly, it should be noted how until recently Honolulu's remote geography has forced police into hiring practices which drew largely from pools of candidates made up from local island residents belonging to the communities they eventually ended up serving. Geographic isolation also forces HoPD officers to live in areas they work in, thus becoming much more responsive to

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<sup>674</sup> (Berube & Holmes, 2016)

community pressures surrounding their image. Both of these variables are foundational concepts in community policing, which is why many police agencies across the U.S. strive to incorporate what had come naturally for HoPD. This difference in officer-community dynamic has allowed HoPD to distinguish itself as having one of the high statistical ratios of officers of color serving similar communities of color.<sup>675</sup> Also noteworthy is the difference in residential demographic in Honolulu verses all other states. The island of Honolulu's demographic does not have a majority Caucasian population as is found in most other states, which has also affected police demographics. Despite these racial ratio differences, race-based problems with (and within) law enforcement in Honolulu are still very present; a point which became evident with the police-based homicide of Kolin Elders by Secret Service Agent Christopher Deedy.<sup>676</sup> When the Elders homicide failed to galvanize community action during a contentious moment brought about by the APEC summit, it was clear how race-based police violence in Honolulu was not a strong enough motive with residents or legislators compared to other forms of police violence. Unfortunately, hiring practices under Chief Kealoha have been geared towards recruiting police candidates from off of the island, and thus have begun to hire more Caucasian officers from other U.S. states. Unless this practice is reversed, HoPD is situated to undo this unique aspect of their department.

I begin this chapter by examining why legal remedies are a critical tool for communities who lack the proper tools for maintaining accountability of police given the new age of national security. I demonstrate how Honolulu residents are using both federal and state courts to bring attention to unjust police conduct, and how the legal remedies being engaged have also become a

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675 (Berube & Holmes, 2016)

676 (Dooley, 2011 (IDK)) (Guest Contributor, 2011 (KKE))

platform of overseeing police using financial and legal tools. Next, I examine how criminal justice students at Remington College and I assisted in reforming HoPD domestic violence policies subsequent the Cachola incident in 2014. I explain the behind-the-scenes work which went into briefing councilmembers and others which ultimately led to domestic violence advocates forming new programs in partnership with HoPD. From policies and programs, I move on to state law changes surrounding police oversight passed in 2016. Explaining how a student coalition was developed from these same Remington College criminal justice students, I explain what steps were necessary and the obstacles which are in place to insulate police from reform policy. This will lead to a discussion on how I aided Honolulu lawmakers to advance and convince residents to pass a Honolulu Charter revisions designed to reverse the 1972 SHOPO repositioning of the HPC. All of these were part of the activism mentioned within the methodology I chose for this project and were designed to aid in stemming growing rates of police-based violence against women and the mentally ill.

#### **4.2 Judicial Remedies as Police Oversight**

When attempting to answer the question, “What effect (if any) do lawsuits resulting from Honolulu police officer’s violent misconduct involving women and mentally ill residents have in bringing about reform policy?” what I appear to really be addressing is the question “What legal options are available to both an individual or the state to prosecute cops accused of police misconduct, and are they effective tools post 9/11?” As I previously noted in Chapter 3 when discussing police accountability after militarization of 9.11, law professor Matthew C. Waxman noted how federal legal remedies would have to be strengthened and broadened given new-age safeguards involving police strategy and information. Honolulu is, perhaps, a model of how

correct Waxman was in his legal analysis and appears also to be demonstrative of both the effectiveness of civil lawsuits and federal legal remedies designed to criminally prosecute police.

Federal court tools (which Waxman in Chapter 3 advocates expanding) were non-existent when the United States was first established policing agents, in fact laws were designed specifically to protect law enforcement by passing constitutional safeguard prohibiting citizens from suing governmental officials.<sup>677</sup> Sociologist Darrell L. Ross, Ph.D. in his book, *Civil Liability in Criminal Justice*, writes about this Civil War era noting,

“Prior to the Reconstruction period, there were only a handful of constitutional provisions that gave protection against actions by state and federal governments. State courts and the common law were virtually the only protection for citizens’ lives, liberty, and property. The conclusion of the Civil War changed this.”<sup>678</sup>

After the Civil War, law-makers sought to develop policy which would protect African-American’s citizens from retaliatory state’s policy, especially in southern states where legislators sought to enforce Jim Crow laws consistently using police to violently suppress black social advances. Many lawmakers believed public officials who sought to harm freed slaves in retaliation for emancipation laws could best be stopped through federal legal remedies brought by the U.S. government and which would hold state officials directly responsible. Ross explains how Congress enacted legislation to address mounting state sanctioned racial violence after the Civil War, during reconstruction, explaining,

“At the conclusion of the Civil War, Congress enacted the Civil Rights Act (Title 18 US. Code SS 242 [1986]) to put an end to the lawless activities of the Ku Klux Klan. The Act provides federal criminal penalties for state and local officials who violate guaranteed rights of citizens...In April 1871, Title 42 US Code SS 1983 was passed by Congress, and it provides a vehicle for citizens to sue for violations of constitutional rights. Section 1983 added civil remedies to the criminal penalties that were enacted in 1866.”<sup>679</sup>

Title 42 Subsection 1983 is this critical race-based accountability legislation which remains as the primary tool by which federal prosecutors are allowed to prosecute police for crimes against

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677 (Ross D. L., 2009, p. 69)

678 Ibid (p.69)

679 Ibid (p. 69)

citizens. Much of what must be proven in these cases (together with what is needed in tort actions) centers on abuses involving a police officer's *color of authority*.<sup>680</sup> Color of law, or color of authority, is outlined as being a prerequisite for proving violations as is outlined in Subsection 1983 of Title 42 of the US Code, which reads;

**"Every person** who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress..."

While *color of authority* is an essential element in proving a violation by police, there are actually four elements which must be fulfilled in order for an individual (or official) to be charged with a crime using federal codes.

The first prerequisite is that the victim must be a U.S. citizen, or within the jurisdiction of a U.S. state or territory at the time of the crime. This is straight forward and is inclusive of the many tourists who find Hawaii and, more specifically, Honolulu as their destination, and who may become victims or somehow otherwise exposed to police violence or misconduct during their stay. Unfortunately, many of these cases of tourist abuse are never reported due to the *dark figure of crime*, fueled mainly by the fear of upsetting governmental officials in a foreign country where the individual is not familiar with the nuances of the penal code or law. The second prerequisite for charging an officer using federal codes involves the aforementioned *color of authority*.<sup>681</sup> *Color of Authority* should be understood to mean the authority given or bestowed upon an individual by the state. This means the individual officer or official must be acting outside of the scope of their authority and power granted to them by the government when they commit the offenses.<sup>682</sup> This is where cases become difficult to prosecute if the police

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680 (Ross D. L., 2009, p. 71)

681. Ibid (p.71)

682 Ibid (p.71)



departments (or Chiefs) leave vague policies or loose use-of-force guidelines for officers. This is also where poor and vague policies, or relaxed disciplinary standards, contribute to federal and state's ability to pursue prosecution through legal channels. Having Chiefs and departments set a pattern of practice wherein they clear police officers from brutality allegations by stating their conduct was within policy despite having evidence demonstrating the conduct should be against policy, gives offending officers one more legal umbrella from which to defend against federal prosecutors. This was exactly the case with the mentally ill Honolulu resident Jamie Rice who was beaten and chemically sprayed by HoPD Ofc. Ming Wang, after he was chased away from chanting near a federally protected monk seal<sup>683</sup> and why Honolulu residents paid indigenous Hawaiian musician Johnny Helms \$167,000 in 2015 (described in detail later in this chapter.)<sup>684</sup>

In a privately shot cell-phone video released to the media, images clearly show a HoPD officer making no attempt to arrest Rice (who is mentally ill) before beating and spraying him with chemicals. Rice, who was chanting and throwing sand into the air, is told to leave the monk seal alone by HoPD officer Ming Wang. Rice complies with the officer and leaves the area where the seal is to collect his personal items, followed by Wang (who walks behind him). Although the suspect is complying, the officer (who did not attempt to arrest him) begins to beat Rice with a metal baton, eventually pepper spraying him, all while (again) Rice is not resisting or being combative. Finally, as Wang continues to beat Rice with a baton, Rice collapses face down onto the sand, at which time Ofc. Wang pounces onto him pushing him deeper into the sand before finally handcuffing Rice.<sup>685</sup> According to HoPD internal affairs and police managers, the actions of Officer Wang's were 100% 'A-Okay' and within HoPD's policy. This was problematic for

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683 (D'Angelo, 2015)

684 (Grube, 2015 (PCT))

685 (D'Angelo, 2015)

many who watched the video and where *color of authority* becomes a clouded issue. If the police managers say the actions are okay, then proving the officer acted outside the color of authority is also paramount to proving the police management are corruptly covering up crime or are inept managers.

The third prerequisite which must be met in order to use the federal codes surrounds the language “every person”, which is mentioned at the beginning of the code and means, “every public official or governmental entity.”<sup>686</sup> This means no officer or department who is entrusted with the powers of the state may be excluded. Finally, the offense committed must violate a constitutionally protected right outlined in the Bill of Rights or by state criminal codes. Dr. Ross notes how, although the legislation was created to protect citizen’s rights, these federal codes remained largely unused for over ninety (90) years due mainly to linguistic vagueness.<sup>687</sup> After August Vollmer testified as to the abuses which police used during interrogations during the Prohibition era (1930’s), called the third degree, the U.S. Supreme Court took action to strengthen the Federal codes and gave prosecutors new tools to ‘go after’ police who misused their authority. The Supreme Court made two landmark rulings, in 1941 and 1945, involving Subsection 1983 law. Ross explains how these two rules changed the vagueness of Subsection 1983 into usable code writing,

“In *United States v. Classic* (1941), the Supreme Court held that officials acting under color of law, as elected officials were in Louisiana when they rigged an election, could be held liable for misuse of power possessed by virtue of state law. Interpretation of Subsection 1983 expanded in *Screws v. United States* (1945), when the Court ruled that acting under color of law also meant acting under pretense of law. In *Screws*, Robert Hall, an African-American, was beaten to death by police officers who had arrested him for theft. The officers were prosecuted under Subsection 242 (criminal violation of civil rights) and the Court stated that ‘acts of officers who undertake to perform their official duties are included whether they hew the line of their authority or overstep it.’<sup>688</sup>

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686 (Ross D. L., 2009, p. 71)

687 Ibid (p. 71)

688 Ibid (p. 71)

When congress passed legislation establishing Title 18 U.S. Code Subsection 242 to augment Title 42 U.S. Code Subsection 1983, the tools had finally been developed which created a legal ‘net’ from which to address violations of constitutional rights by police. It is interesting to note how many of the lawsuits brought against HoPD officers for abuses and crimes while under Chief Kealoha’s leadership (between the periods of 2011 – 2016) involved Subsection 1983 civil rights violations, but were handled by county prosecutors instead of federal prosecutors resulting in non-prosecution. In fact, between 2011 -2016 most of the civil lawsuits resulting from either Title 18 or Title 42 police misconduct (justified by either the HPC or Chief Kealoha, e.g. Jonah Kaahu,<sup>689</sup> Jamie Rice, and Johnny Helm) still resulted in costly legal settlements paid by Honolulu residents.

Although Title 42 and 18 were written to protect citizen’s rights, their language and framework underwent several revisions before being able to be used in its current form. Several case law<sup>690</sup> changes clarified how the federal codes could be used, as federal officials sought to use the code to fight police misconduct. Some of these major case law revisions affecting how Subsection 1983 includes,

1. *Carey v. Pipus* (1978) – Punitive and Compensatory damages available for SS 1983 violations<sup>691</sup>
2. *Maher v. Gagne* (1983) – Attorney’s fees are recoverable for SS 1983 suits<sup>692</sup>
3. *Smith v. Wade* (1983) – malice was not a prerequisite for SS 1983<sup>693</sup>
4. *Wilson v. Garcia* (1985) – the recognition of Subsection 1983 suits as personal torts<sup>694</sup>
5. *Daniels v. Williams* (1986) – acts must rise to the level of gross negligence to meet SS 1983<sup>695</sup>
6. *King v. Marci* (1993) – Malicious prosecution added to SS 1983<sup>696</sup>

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689 (Daysog, 2014)

690 Case law is comprised from legal decisions which set precedence, or those legal decisions turned to in similar actions to maintain a constant or status quo within the law.

691 (Ross D. L., 2009, p. 77)

692 Ibid (p. 77)

693 Ibid (p. 77)

694 Ibid (p. 77)

695 Ibid (p. 75)

696 Ibid (p. 78)

Although not a complete list contributing to the modern interpretation of Subsection 1983, these six legal cases demonstrate how the federal codes have not remained dormant or stagnant, instead growing alongside both social needs and expansions to police power and authority. What must be stressed about the federal legal remedies are how they are generally only used, or heard about, when the government has a high-profile case involving 1) constitutional rights violations by police agencies, 2) crimes committed on federal property (e.g. the federal courthouse, post office, F.B.I. building, etc.), or 3) mail or postal theft (which is why Kealoha's racketeering issues involving a mailbox included a federal investigation and prosecutor).<sup>697</sup>

Having explained the background and purpose of federal legal safeguards designed to keep officers 'in check', it is important for me to bridge my analysis to explain how certain states also enacted laws creating legal remedies meant to address abuses by police. If by no other means than state criminal codes themselves, some state-level prosecutors may also charge police with crimes which specifically address abuses of authority. In other words, not only can state and county level prosecutors use the same laws they use to charge non-police with crimes, should no specific law exist surrounding police abuse of power (as is the case in Hawaii where police are charged in similar fashion to the public), but some states have enacted laws which are enhanced due to police violating the authority granted them by the state.

Because of the links existing between police and local/state prosecutors, it becomes important to analyze how cases of police misconduct and crimes have been charged and handled in Honolulu. What is confusing to residents and reformers in Honolulu is how HoPD officers who commit criminal acts which are not handled on the federal level (including alleged assault or battery)

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<sup>697</sup> (Kawano, 2016 (Chief))

have a dice roll when deciding where their cases are tried. A prime example of where officers committed similar crimes of battery resulted in two distinctly different court routings (one to state court, one to county court) has many in Hawaii believing officer misconduct prosecution is a political issue. These two similar but distinct cases involved HoPD Officers Cachola and Seti Jr. I have outlined in detail the facts involving Ofc. Cachola (see Chapter 3) wherein he was accused of beating Deborah Aton (his girlfriend) resulted in the case being referred to the county prosecutor (Keith Kaneshiro). Contrary to how the courts handled Cachola's case, Ofc. Seti-Jr was charged with third-degree assault by the Hawaii state attorney (Doug Chin) after allegedly beating Honolulu resident Eric Masrasrik.<sup>698</sup> While Officer Cachola's case was handed to the County Prosecutor (a friend of Chief Kealoha)<sup>699</sup> who used a local grand jury, which ultimately dismissed charges, Officer Seti-Jr.'s case was sent to the State Attorney General (who is responsible for filing injunctions against President Trump's immigration policy)<sup>700</sup> who filed the case directly in state court<sup>701</sup> thereby avoiding the grand jury process.

Although I have asked multiple Hawaii state senators and Hawaiian prosecutors as to what guidelines constituted where a police misconduct cases are referred, whether it be to the county (e.g. Cachola) or the state (e.g. Seti Jr.), no official was able to answer me nor has anyone who was asked been able to point to a Hawaii law or regulation which would provide clarity. This leaves me to conclude the cases are decided politically rather than having official policy decide where police misconduct crimes are prosecuted. If correct, this casts a poor shadow on the Honolulu prosecutor who appears invested aiding police managers in clearing officers of

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698 (Namata, 2015)

699 (Grube, 2016 (HPD-Pros))

700 (Devera, 2017 (TIB))

701 (Kawano, 2015 (HGBS))

misconduct.<sup>702</sup> What has been made clear through many articles and public conversations is how the Hawaii state attorney general currently has more credibility with Honolulu residents than does Honolulu's chief prosecutor (who hired and appears to be in collusion with Chief Kealoha's wife's prosecutorial misconduct)<sup>703</sup> when it comes to prosecuting police who fail to follow the law.<sup>704</sup>

According to a 2016 Star Advertiser article entitled "*Soft on Crime*", wherein comparisons were made between the effectiveness of federal prosecutions versus the success rate in county prosecutions involving police misconduct, federal prosecutors have successfully prosecuted 6 of 8 cases (75%) while county prosecutors have been successful only once in twenty one attempts (1/24 or 04%).<sup>705</sup> According to the report, of twenty one lawsuits against police (including the Eldert's homicide) where the Honolulu county prosecutor's office (Keith Kaneshiro') oversaw prosecution, only one case resulted in an officer serving any type of prison time.<sup>706</sup> However when federal prosecutors prosecuted HoPD officers using federal tools the conviction rate was at 75%.<sup>707</sup> It was for this reason when constructing policy with state legislators I consistently avoided suggesting the county prosecutor as a remedy in new legislative policy, instead suggesting all remedies use the Hawaii State Attorney General.

Despite being re-elected in 2016 by a strong Japanese voting base which was aided by media who refused to focus attention to his unknown opponent,<sup>708</sup> public trust in the Honolulu County Prosecutors office (under Keith Kaneshiro) has been in steady decline. Because Kaneshiro

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702 (Johnson, Chesney-Lind, & Chagnon, 2014 (T))

703 (Grube, 2016 (KKDKK))

704 (Grube, 2016 (HPD-Pros)) (Johnson, Chesney-Lind, & Chagnon, 2014 (T)) (Kawano, 2016 (KKT)) (Perez, 2016 (SOC), p. A1)

705 (Perez, 2016 (SOC), p. A1)

706 Ibid (p. A1)

707 Ibid (p. A1)

708 (Grube, 2016 (KCIBM))

continues to use his name to draw strong support from the majority Japanese community on Oahu, he continues to be voted into office despite federal officials raiding his offices,<sup>709</sup> mishandling the Eldert’s homicide,<sup>710</sup> mishandling the largest gambling case in Honolulu history,<sup>711</sup> mishandling the Cachola grand-jury,<sup>712</sup> and claiming responsibility for all of Katherine Kealoha’s suspected criminal activity.<sup>713</sup> This steady loss of trust is also centered on the Honolulu prosecutor and his staff failing to file charges in at least one incident involving allegations of police misconduct,<sup>714</sup> failing to secure an indictment in at least three cases involving HoPD officers,<sup>715</sup> failed to convince their own grand jury in a high profile HoPD misconduct case,<sup>716</sup> and most recently being accused of criminal collusion with the police in a federal civil rights violation investigation.<sup>717</sup> When the Honolulu Prosecutors office was unable to obtain a conviction in both the Eldert homicide and Cachola incidents, and their prosecutors mishandled major investigations,<sup>718</sup> I understood why Waxman’s suggestion involving an expansion of federal tools was both smart and critical. I also understood how in Hawaii it was essential to move police misconduct criminal cases up to the state prosecutor and away from county prosecutors, whose interconnectivity to police managers is too cozy given the uniqueness of island politics.<sup>719</sup> According to the Hawaii Attorney General’s website,

“Although the county prosecuting attorneys bring most of the criminal prosecutions in Hawaii, the prosecutors act under the authority of the Attorney General, and deputy attorneys general also prosecute persons who commit crimes. We have primary responsibility for prosecuting fraud in the areas of Medicaid, tax, unemployment insurance,

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709 (Kawano, 2017 (CPOR))

710 (Daranciang, 2014)

711 (Kawano, 2016 (BBPK))

712 (Johnson, Chesney-Lind, & Chagnon, 2014 (T))

713 (Davis, 2016 (KKDKK))

714 (Newsstaff, 2015)

715 (Daranciang, 2011 (NOT)) (Daranciang, Judge dismisses sexual assault case against police officer, 2015 (J)) (Mendoza, 2014 (DNG))

716 (Johnson, Chesney-Lind, & Chagnon, 2014 (T))

717 (Kawano, 2016 (Chief)) (Kawano, 2016 (KKT)) (Kelleher, FBI Serves Warrant at Honolulu Prosecuting Attorney’s Office, 2017 (FSW))

718 (Lincoln, Judge: Prosecutors misrepresented evidence in high-profile gambling case, 2014)

719 (Grube, 2016 (HPD-Pros))

welfare, and workers compensation. We prosecute multi-county crime, crimes involving state agencies and officials, and cases that county prosecutors cannot prosecute because of conflicts or other reasons.”<sup>720</sup>

This appears to indicate that while the State Attorney General retains jurisdictional authority, his office defers to the City Prosecutor’s office for most criminal cases due mainly to fiscal and political reasons. While legally cordial, all police misconduct cases in Hawaii (including those committed by county officers) have proven themselves worthy of being heard at the state level rather than allowing individual counties to oversee their own policing malpractice. This move would hold police to a higher standard of conduct, which police claim to live by and which is expected by the community. As previously outlined, according to Hawaii Code (State law), police who commit crimes while on duty are charged for their criminal conduct through the normal criminal justice penal codes similarly to non-policing residents. Because this adjustment would shift police criminal cases up to the state level, Hawaii law-makers would have to pass new legislation which mandates counties to defer cases involving allegations of police misconduct to state courts. This would also clarify what legal penalties surrounded police abuse of authority, and prevent similar cases involving HoPD officers from being handled in different manners, subjected to differing political oversight. Until state lawmakers address this contrast as to what legal remedies are applied to HoPD misconduct, doubts as to law-makers sincerity to hold police accountable will continue and grow with public frustration.

What should also be made clear to Honolulu residents, through ongoing educational awareness programs, is how the U.S. Department of Justice has tools designed to address police abuses or misconduct wherein ‘color of law’ is an issue and where county prosecutors refuse or decline to file charges. This assumes Attorney General Sessions does not dismantle these tools, as

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720 (Office of the Attorney General Hawaii, 2016)



evidence has pointed to him advocating a dismantling of a decade of reform policy designed to oversee police.<sup>721</sup> Many residents feel because Honolulu county prosecutors are corrupt,<sup>722</sup> and are secretly unwilling to prosecute or investigate police cases, that victims are powerless to demand criminal prosecution. According to the Department of Justice website this is not true. Currently, the Civil Rights Division of the U.S. Justice Department is prepared to review and investigate allegations of police misconduct made by private citizens to determine if it meets federal code violations (as previously outlined) and to determine if fair prosecution is occurring at the state level. Noting this fact on their webpage they write,

“The Civil Rights Division enforces civil rights laws in a wide variety of contexts. You may use the information on this page to find the appropriate way to submit a complaint or report of a potential civil rights violation. If you are not sure which Section is the appropriate one to receive your complaint, you may contact the Civil Rights Division at (888) 736-5551 or (202) 514-3847.”<sup>723</sup>

Ross adds to Waxman’s argument of the importance of expanding federal legal tools remedies, noting how victims of police misconduct are becoming more able and willing to utilize the civil court litigation (both federal and local) as a method of augmenting criminal penalties sought by state and federal officials. This, again, is important especially to communities where there are no external police accountability mechanisms developed for addressing official police misconduct or where the county and federal officials are ‘reluctant’ or ineffective at prosecuting police. Ross writes,

“Allegations arising from public officials’ misuse of authority may be filed in federal or state court. Negligence and intentional torts<sup>724</sup> form the foundation of civil liability...Negligence claims against criminal justice personnel are based on state tort law. Negligence definitions differ from state to state, but generally mean the absence of care...The standard applied in negligent torts is whether the officer’s act or failure to act created an unreasonable risk of harm to another.”<sup>725</sup>

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721 (Byrne, Wilber, & Hinke, 2017)

722 (Grube, 2016 (HPD-Pros); Kawano, 2016 (KKT); Kawano, 2017 (CPOR))

723 (U.S. Department of Justice - Civil Rights Division, 2017)

724 Tort – “A wrongful act, not including a breach of contract or trust, that results in injury to another’s person, property, reputation, or the like, and for which the injured party is entitled to compensation.” (dictionary.com staff, 2016)

725 (Ross D. L., 2009, p. 37)

The decision on where plaintiffs and officials file their civil cases (either federal or state court) is also important and often depends on the environment themselves. Citizens and officials in Honolulu have several factors to consider before making this choice. Having personally filed civil rights violation lawsuits in Honolulu, I know there are punitive financial caps on federal civil actions which make filing the actions through the state system more attractive. However, according to Eric Seitz, a civil rights lawyer in Honolulu, the county court system is not as willing to address civil rights issues as is the federal court system.<sup>726</sup>

Residents and their lawyers in Honolulu have recently begun to use civil lawsuits as a remedy to the perceived failure of county prosecutors or police officials to address HoPD officer misconduct. According to Anita Hofschneider, a journalist with Civil Beat news, who was investigating legal costs Honolulu residents were facing due to police misconduct cases,

“From Jan. 1, 2003, to May 1, 2014, the city settled nearly 100 cases regarding police for a total of \$5.7 million. A \$1.4 million settlements in 2014 involving the death of Aaron Torres was the largest payout at the time. The proposed settlement of \$4.7 million may be the latest — and most expensive — but won’t be the last. Lawson believes that if nothing changes within the department, taxpayers will be faced with increasingly higher settlements. “If it’s \$4.7 million now and someone else falls victim (to discrimination), then it’s going to be even bigger,” he said. The city is also in the midst of defending the police department from a lawsuit brought by the family of Sheldon Haleck, who died last year after police used a stun gun on him in downtown Honolulu. The city medical examiner ruled the death a homicide, although that term is a technical finding and does not mean Haleck was murdered, only that someone else caused his death. Attorney Eric Seitz, who represents Haleck’s family, said a judge recently urged attorneys to consider settlement negotiations. Seitz plans to seek \$6 million to compensate Haleck’s family for his death. That’s about how much the city of Baltimore agreed to pay the family of Freddie Gray, a black man who died in police custody, and New York City approved for the family of Eric Garner, who was killed by police on Staten Island. On Wednesday, it will be a year since Haleck died, but Seitz said he hasn’t received any evidence that the police officers involved have been investigated or disciplined. “Frankly the city is just going on as if nothing happened,” Seitz said. “That’s somewhat devastating to his family who are celebrating a memorial for him next weekend.” Seitz said while financial compensation is important, the lack of institutional change is scary. “The public seems to accept that the police are entitled to use force inappropriately and they’re not going to held accountable,” he said. “And until that changes people are going to be in danger.”<sup>727</sup>

With a plethora of both federal and state/county HoPD misconduct civil lawsuits available for analysis (over 30 between the periods of 2011 to 2017), I chose five from among the thirty cases to demonstrate how Honolulu residents have attempted to remedy police misconduct using civil

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726 (Seitz, 2012)

727 (Hofschneider, 2016 (HCC))

tort litigation, and how these legal settlements further indicate how police are not being held criminally accountable. The five cases I have chosen have so far cost Honolulu tax payers \$6.067 million dollars, with two of the five lawsuits yet to be settled.<sup>728</sup> These five cases include: 1) Johnny Helms -\$167,500, 2) Aaron Torres -\$1.4 million, 3) HoPD Sgt. Dowkins - \$4.5 million, 4) Sheldon Haleck, and 5) Jamie Rice (both of which are yet to be resolved). These lawsuits demonstrate how residents appear fed up with police abuse and have turned to suing tax-payers in order to bring attention to their plight. The three cases which have been settled also send an important message of how Honolulu courts and governmental officials (faced with rising budgetary expenses to operate county services) are still willing to hand down or agree to massive punitive settlements associated with police misconduct rather than passing legal or policy reform. These settlements also appear to show how Honolulu residents are becoming more willing to make a bold political statement using civil litigation as a means to urge policy reforms.

When placed into perspective with national statistics surrounding police misconduct penalties, the numbers became more unsettling considering all five police misconduct cases chosen involved Chief Kealoha's leadership where he said no policies had been violated. Chief Kealoha (himself) is poised to also cost Honolulu taxpayers more money due to: 1) a \$250,000 negotiated pay-out to force him into retirement,<sup>729</sup> 2) lawsuits between him and the ethics commission which have yet to be resolved,<sup>730</sup> and his defense costs which will be used to defend him against federal tools designed to bring him to justice for Title 42 criminal acts.<sup>731</sup> Although being the least dollar amount settlement of the five cases, the Johnny Helms lawsuit is the most alarming

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728 (Grube, 2015 (PCT)) (Grube, 2014 (LOM)) (Grube, 2016 (BMS)) (Riker, 2016) (Sagapolutele, 2016 (FO))

729 (Kawano, 2017 (KPO))

730 (Daranciang, 2015 (Ethics)) (Kerr, 2015 (Ethics)) (Mangieri, 2016)

731 (Kawano, 2016 (CFLSR))

as to how willing Honolulu residents have become to seek civil remedies to the three most common reasons officers are sued, and how far county officials are going in whitewashing bad police conduct.

In the Helm's lawsuit, Helm attempted to allow the HPC and HoPD internal affairs to handle his complaint against officers' conduct only to have both agencies fail to hold the officers accountable. It was only after this point, Helm's attorney turned to civil action to resolve what police had done to him.<sup>732</sup> Given how most police lawsuits center on the three primary allegations made in the Helm lawsuit, and Chief Kealoha found all officers justified and innocent of these three crimes (ultimately being released back to duty), there is evidence indicating how future lawsuits involving similar problems will most likely occur. The Helm's lawsuit dealt with false arrest, false imprisonment, and brutality.<sup>733</sup> The reason this is so troubling is according to Ross, these are the three main areas where police bureaucracies experience the most difficulty, other than unjustified police shootings. Noting this fact Ross writes,

"More than 40% of all suits during this {1967-1982} period alleged false arrest, false imprisonment or malicious prosecution. Claims of excessive force by officers amounted to 27% of the allegations, and six percent of the claims alleged the misuse of firearms."<sup>734</sup>

False arrest, false imprisonment and brutality are all issues which have also contributed to the methods used to commit sexual violence against women by HoPD officers.<sup>735</sup> The Helm's lawsuit (more accurately the Helms-Wellins lawsuit) cost taxpayers \$167,500 and began in February 2012 when HoPD aviation officers found Johnny Helm and Jonah Wellins hiking on the Lanipo Trail off of Wihelmina Road as police searched for two robbery suspects. Although the aviation crew admitted they told CRU (Crime Reduction Unit) officers that the two men did

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732 (Grube, 2015 (PCT))

733 (Daysog, 2013 (PBC)) (Grube, 2015 (PCT))

734 (Ross D. L., 2009, p. 6)

735 (Kawano, 2016 (UHVb)) (Kerr, 2015 (SAAG)) (U.S. Attorney's Office, 2015)

not match the robbery suspects description, the HoPD helicopter crew ordered both men (via the loudspeaker) to begin walking down the trail and back to the main road. As the two men were complying with police requests eight CRU HoPD officers dressed in military combat gear and carrying military grade weapons beat, yelled profanities at, and eventually knocked Helm unconscious.<sup>736</sup> The CRU officers then handcuffed both men (arresting them) and marched them off the mountain. It should be understood that legally, when an officer moves a suspect the legal recipe is custody + movement = arrest. This is day one academy training and why witnesses are brought to suspects, and not vice-versa. This means police (mistakenly) arrested the two, which then allows for scrutiny over what officers believed their probable cause was.

Despite there being testimony, given during the HPC review, proving the HoPD aviation officers made clear Helm and Wellins were not the wanted robbery suspects being sought by police, CRU officers ignored this and arrested the men, eventually transporting them to HoPD headquarters. Once CRU had taken both men back to HoPD headquarters and realized that they had made a mistake, thus falsely arresting and beating two innocent men, they did not follow policy and seek medical attention for the two, instead driving them back Palolo Valley and dropped them off.<sup>737</sup> After the incident Helm and Wellins filed a complaint with the HPC alleging police brutality and false arrest. The HPC heard the case in which Chief Kealoha and the City attorneys (at taxpayers' expense) hired a police expert to refute the brutality allegations and defend the officers' bad conduct. Helm and Wellins prevailed in their complaint convincing HPC commissioners (in a rare occurrence) HoPD officers had violated policy and the law. According to Helm and Wellin's (and currently Chief Kealoha's) attorney Miles Breiner,

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736 (Daysog, 2013 (PBC)) (Grube, 2015 (PCT))

737 (Daysog, 2013 (PBC))

“Breiner said the commission unanimously sided with his clients after hearing their testimony. He said the commission found that both Sooto and Sung had used unnecessary and excessive force against the hikers. The commission also found that Sooto, Sung and the six others at the scene of the arrest had engaged in “conduct unbecoming an officer.” But the city and HPD both refuted those findings. In fact, the city hired its own expert witness — retired Bellevue, Washington, police chief D.P. Van Blaricom — who found that the officers’ arrest of Helm and Wellins was “textbook.”<sup>738</sup>

Despite the HPC’s finding, Chief Kealoha overruled the HPC and found all officers had (not only) not violated any law, but had acted well within the department’s use-of-force policy. As a result, all of the officers are still on patrol in the Honolulu community and received no disciplinary action, thus demonstrating how residents remain at risk from police who walk away from such abuses feeling vindicated. While this appears another indication of where the warrior mindset affected police behavior, when officers are not held accountable there are no lessons to be learned.

Of the five cases being analyzed (Helm, Torres, Dowkin, Haleck, and Rice) which contributed to the six million dollars spent thus far by Honolulu tax payers, all but one of the cases (Dowkin) allege some type of police misconduct outlined by Ross as being commonly problematic and which appear to contribute to increased gender and ability based violence. What is even more interesting about Ross’ point is how there is evidence Honolulu residents have become more fed-up with perceived corrupt behavior in these three areas outlined by Ross (i.e. false arrest, brutality, and illegal use of firearms) since Kealoha’s take over, and are willing to use federal courts rather than state or local courts.

With the numerous high dollar lawsuits currently being settled in Honolulu, residents and tourists have clearly begun to understand they can use federal, state, and local civil litigation to address HoPD misconduct, which should motivate state lawmakers to address the public’s discontent. While it may seem common sense to have someone, somewhere in government, tracking the

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738 (Grube, 2015 (PCT))

number, frequency, type, and outcome of litigation against police agencies or actors, there is no such person or department. This may be one reason law-makers are able to continue to avoid having to see the bottom line of costs associated with police misconduct, instead acting as if each lawsuit is a new and separate issue.

Currently there remains no academic study, and little evidence, which would aid or allow law-makers or reformers to point to surrounding civil litigation of police agencies. Ross attempts to explain why this is, writing,

“While a great deal of research exists relative to civil suit analysis, a dearth of accurate statistical information exists regarding the trends and types of lawsuits filed against police. It is difficult to precisely assess the true nature of lawsuits filed against the police, partly because the courts publish only a portion of the cases they decide, and judges are selective in documenting those cases. There is no systematic method for collecting information specific to police civil litigation. The Administrative Office of the U.S. Courts (AOC) tracks federal civil actions annually, but does not specifically report cases filed against the police. Currently literature reveals that civil lawsuits against police are widespread, frequent, increasing, and a major concern to law enforcement officers, police chiefs, and governmental leaders.”<sup>739</sup>

Despite their being no consolidated database from which to use, examples of high dollar settlements against police misconduct often become historic and can be cited, thereby helping communities overcome this gap. Historic high dollar payouts for police misconduct have aided other communities to reform police, including the City of Philadelphia, PA., who paid approximately \$3.2 million in 1996 for two separate lawsuits relating to a bombing (by police) occurring in 1985,<sup>740</sup> and the City of Los Angeles, CA. who paid \$3.8 million to Rodney King.<sup>741</sup> These settlement figures seem high and explain why communities reformed, until considering Honolulu taxpayers spent 4.5 million to settle the Dowkin EEOC lawsuit and made no significant reforms as a result, instead attempting to cover up what was said to have really occurred. The \$6 million in settlements Honolulu residents paid for the Dowkin and Torres

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739 (Ross D. , 2013, p. 5)

740 Ibid (p. 3)

741 Ibid (p. 3)

lawsuits together (omitting the Rice, Helm, and Haleck cases) demonstrate how HoPD and Chief Kealoha have continued to cost taxpayers much more than other cities nationally. After reporting initially on the high cost of civil lawsuits involving officer misconduct, Civil Beat reporters attempted to track how much taxpayers had spent in settlements between 2003 -2016. They reportedly found the Honolulu city council has agreed to pay over \$10.4 million dollars in over 100 different settlements during that period, dwarfing other cities nationwide.<sup>742</sup>

One would think with all of the money being spent on police misconduct, HoPD officials and officers would worry about where the money was coming from, or how it was indicative of poor training and discipline. Ross, however, notes how there is a general apathy from police towards civil lawsuits writing,

“A majority of officers believe that the threat of civil litigation does not prevent an officer from violating a citizen’s constitutional rights during an arrest, that civil liability is an unfortunate inevitability of the job, and that it is not a significant method for controlling officers’ behavior.”<sup>743</sup>

Similarly to what Ross notes, Honolulu police managers have made no public statements surrounding either; 1) the dollar amount spent on police misconduct settlements, 2) the number of cases which are being litigated through the civil court system, 3) the severity of the charges being alleged, 4) how lawsuits are demonstrative of a problematic subculture in the department, or 5) what planned responses and changes to current police practices are planned to stem future bad acts. Unfortunately, the frequency with which HoPD officers find themselves being arrested or sued for misconduct rivals any other major U.S. city. My research, independent of news media, identified more than sixty (60) police officers who were accused, indicted, or sentenced for crimes between the periods of 2010 – 2016.<sup>744</sup>

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742 (Grube, 2014 (LOM)) (Riker, 2016)

743 (Ross D. , 2013, p. 11)

744 Data from UH-HSP #23221 maintained by PR, and is available upon request. (Hunger, 2016)



The one recent (2017) indication police were not happy with being accountable for civil penalties has come from temporary HoPD Chief Okimoto, stating he was not pleased with Chief Kealoha's \$250,000 coming out of the HoPD departmental budget,<sup>745</sup> which the HPC told city councilmembers the taxpayers would be responsible for making-up. However, it was Chief Kealoha's bad conduct, and his officer's loyalty to it, which cost tax-payers those funds, leaving many residents to ask why the funds should come from anywhere other than the department's budget. If law-makers hold firm to the decision holding police accountable for its bad conduct, it may cause officers to protest which would bring about another public conversation on who is accountable for police bad conduct civil penalties. With Gerald Puana (the target of Chief Kealoha's racketeering and false arrest), Sheldon Haleck, and Jamie Rice's lawsuits all forthcoming and poised to cost Honolulu residents millions more in legal settlements, large dollar payouts for police bad acts appear to be in Honolulu taxpayers' immediate future. What I found as the most important take-away after analyzing judicial tools addressing police misconduct in Hawaii to be is that state legislators need to standardize police misconduct tools by charging the State Attorney with prosecuting all police criminal cases statewide rather than allowing county prosecutors to handle police misconduct prosecutions.

#### **4.3 Helping to Stem Police-Based Domestic Violence: Safe on Streets (SOS)**

During my tenure working in law enforcement I often had citizens quote policy to me, as both departments were dedicated to ensuring their communities were educated on police operations as a method of public safety enhancement. After moving to Honolulu and noticing the unusually high number of police misconduct cases involving women and the mentally ill, one of the first

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745 (Kawano, 2017 (PGTW))

areas I wanted to analyze was HoPD's policies. What I realized, almost immediately, was how there was no way for someone not in HoPD to get a copy of the policies or guidelines, especially those which protected the mentally ill and domestic partners of police. I was told this was due to national security changes made after 9.11 surrounding police operations. When I finally was able to review HoPD's existing policies (in 2015) what I found were vague, or non-existent, language in many critical policy areas (e.g. dealing with the mentally ill or domestic partners of police) which left officers able to individually interpret policy, thereby contributing to problems regarding standardization of service delivery. Keeping police operational policy from the public has also contributed greatly to ongoing confusion by Honolulu residence as to what police are authorized to do verses forbidden acts. As I previously outlined in multiple sections of this dissertation, in September 2014 the infamous video of HoPD Sgt Cachola punching and kicking his girlfriend Deborah aired on the evening news.<sup>746</sup> When this incident occurred, I decided to use it as a 'teachable moment' for students of my criminal justice bachelor's classes. At the time of the Cachola video, I was teaching bachelors level criminal justice classes at a private college in Honolulu. Using the video, I asked students to tell me what policies or laws may have been broken by Sgt. Cachola, especially those policies regarding domestic violence within the department.

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746 (Kerr, 2014 (FCS))



**Figure 6: The Cachola video used by Chief Kealoha, SHOPO, and the Honolulu Prosecutor showing Deborah trying to get her phone and striking Sgt. Cachola in the head earlier in the evening (prior to the famous video). There was not context given when airing this video other than to show Deborah punching Sgt. Cachola and it was not mentioned he had taken her phone.**

What we first discovered (as a class) was how HoPD operational policies and guidelines were (at the time) not open for public review. I called and requested the policies for my classes, and was interrogated as to why I needed police policies before being told flatly, NO. It instantly became clear how holding police accountable to policy was impossible if no one outside of HoPD knew what the policies were. Because HoPD policies were not publicly disclosed prior to 2014, officers often began making up policy or laws to fit what they believed was justice. Because of the lack of knowledge or legal training by most citizens these questionable police conceived policies go unchallenged by residents and tourists. I personally overheard HoPD officers using slang Pidgion to misinform, confuse, or flippantly dismiss Honolulu residents and tourists' requests for legal clarifications or clarifications of departmental procedures.

When polling my classes, routinely the students who were long time Honolulu residents would admit how they (and their families) didn't have the slightest idea of what powers police were authorized and what was an overreach. Many of these same students cited that very lack of knowledge as the primary reason for majoring in criminal justice. This lack of transparency of policy was one of the primary reasons why Hawaii State Senator Will Espero said he (together with the Hawaii Women's Legislative Caucus) wanted to conduct a public inquiry into Chief Kealoha's handling of the Cachola incident later that month.<sup>747</sup> The fact departmental policies were so guarded even had Chief Kealoha admitting it was problematic just before he tried to deflect the question and incident being investigated by verbally attacking investigating lawmakers and journalists about their motives. Kealoha was quoted as stating,

““The reason we have all this second guessing and confusion is because sometimes the police department isn't as transparent as we should be,” the chief told reporters last week at a news conference. It was called to talk about the department's domestic violence policy but evolved into Kealoha vigorously defending HPD's handling of the investigation so far. The chief insisted he would not hang Cachola out to dry before good police procedure was followed and the incident thoroughly investigated. “If you expect a chief to crumble under political and public pressure, and arrest someone based on partial evidence and without doing a full investigation, I'm not going to do that,” he said.”<sup>748</sup>

This was one reason the Cachola commission (2014) had Chief Kealoha read and explain the domestic violence response policy in a public forum. When the Chief finally read the policy, it was clear how poorly written and vague the policies actually were.<sup>749</sup> This was evident by lawmakers questioning him on the vagueness and then questioning why he hasn't used his authority to change those vague policies.<sup>750</sup> As I previously mentioned, I was working at a private college and had begun to use the tape as a teaching tool. Several instructors at the college were forced to work outside employment in order to meet Hawaii's high cost of living.<sup>751</sup>

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747 (Uyeno, 2014 (CM))

748 (Civil Beat Editorial Board, 2014)

749 (Cachola Commission - Videotestimony, 2014) (Kawano, 2014 (CGH))

750 (Kawano, 2014 (CGH))

751 (Gallagher, 2016)

One of these instructors (Ms. Michele Van Hessen) also worked at the Capitol in the House minority research division. When she learned of my class' use of the tape, she introduced me to Senators Espero and Slom who were in Hawaii Senate Public Safety Committee and were in the process of scheduling the Cachola Commission.

Senator Espero asked if I would assess HoPD's policies and tell him whether I felt (as a former police officer) there was probable cause for holding Sgt. Cachola criminally liable for his conduct on the video tape seen on the news. It was at this point I notified him of the classes' discovery of how policies were not publicly available, and how I had been flatly denied access to the departmental policies by HoPD officials when I had requested them previously. Senator Espero then asked if I would be willing to explain this at the hearing, and whether I would explain the importance of external independent oversight. He said to base my testimony on my knowledge and experience as a former police officer. Understanding this would be good for the students to witness, I arranged for all of us to attend the Cachola Commission hearings.



Figure 7: Testifying at the Cachola Commission, aired live on OLELO & Capitol television stations (2014)

During the commission, I made clear how allowing police to investigate themselves in officer related crimes, without any ability of external review, would eventually lead to public doubt in the validity of police investigations, and further endanger both women and the mentally ill.

I also pointed to how it was impossible to assess whether police acted properly in any given set of circumstances due to the inability to review departmental policies.<sup>752</sup> I was quoted after my testimony as noting the problems I had with obtaining the policies and how independent review of police (although critical) was impossible due to this lack of transparency. News media quoted me as stating,

“Aaron Hunger, a criminal justice instructor at Remington College and a doctoral student at the University of Hawaii, told lawmakers it’s important to have an independent committee analyze the department’s current protocols, especially in light of the Cachola case. “This perception that the police take care of their own builds the animosity that becomes the accusations that we have before us and have been brought to the public’s attention through our popular, mass and social media,” Hunger said. “Although many have been attempting to examine police policy, I and many others have found that the Honolulu Police Department is guarded over all of the information it releases, to the point of appearing nontransparent.”<sup>753</sup>

Following my testimony, several law-makers approached me on my way out of the room and asked for clarification on what I meant when I said I couldn’t access HoPD policies. Surrounded by students I told them of our problems gaining public access to HoPD policies, which led to many of them asking me to call them and meet before the start of the next legislative. By January 2015, just prior to the start of the state legislative session, I had arranged for my criminal justice classes (who were closely following the County prosecutor and Grand Jury in the Cachola case) to meet with both Hawaii State Senators’ Laura Thielen and Will Espero. At that time both Senators were spearheading efforts to reform HoPD policies, and were active in submitting police reform legislation in the state senate addressing domestic violence, and police sexual assaults on women. Several of the students who had attended the Cachola Commission and

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752 (Cachola Commission - Videotestimony, 2014)

753 (Grube, 2014 (GC))

witnessed my testimony were eager to be more involved with any prospect of being part of changing state law over police misconduct. As the students and I were all given more access, we became more aware of how deeply systemic the problems were. As the students and I met with both Senators, one student was (pre-scripted) to ask how the senator knew Cachola had violated HoPD policy prior to legislative hearings, as the class could not get access to view HoPD policies. Another student (again prescreened) asked why college students studying criminal justice were denied access to their local police department's policies, given as to how they would be used as an educational tool. Senator Thielen stated how one of the priorities of the Hawaii Women's Legislative Caucus during the 2015 legislative session would be to address the transparency of police in Honolulu, which included the ability to review policy. These private meetings led to the students banding into a coalition dedicated to supporting both Senator Espero and Thielen's 2015 legislative efforts in the Hawaii state senate.



**Figure 8: Criminal Justice Students, Jonelle Tsunezumi, and I at the State Capitol waiting to meet with Senator Espero (2014)**

Two weeks after these private meetings were held, the state legislative session began wherein nineteen legislative bills were proposed seeking some form of police accountability reform. The bills ranged from legislation directed at prohibiting officers from engaging in sex during traffic stops (SB-1335) to bills mandating officers to have a high school diploma before being hired as a police officer in the state of Hawaii (SB-664). Multiple bills were also included demanding

increases in domestic violence and mental illness training for all law enforcement. Because there were so many different pieces of legislation, the class divided all of the potential bills amongst themselves and each day a student would introduce and summarize (in class) a description of the legislation. I led daily discussions, and together we all analyzed the proposed concepts outlined in the bills against what criminological and criminal justice textbooks taught surrounding the problem outlined by the proposed legislation. Collectively (as a group) we agreed to each individually prepare testimony on certain bills, based off of class discussions and lessons learned about the legislation. Because I had scheduled myself to provide testimony directly to the legislative committees hearing each bill we had studied, I also encouraged each student to attend the hearings and testify as to whether they supported the legislation, or whether they suggested improvements on the bills before forwarding the bills to the next committee.



**Figure 9: Student Coalition, Jonelle Tsunezumi, and I meeting with Senator Espero to discuss gender-based & police family violence (2014)**

In March 2015 the Honolulu Grand Jury decided not to indict Sgt Cachola, which set off a renewed outrage from domestic violence advocates and Honolulu residents,<sup>754</sup> and refocusing students towards doing something to address publicly perceived police corruption and complicity surrounding police-based violence against women, which now clearly extended to the county

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754 (Johnson, Chesney-Lind, & Chagnon, 2014 (T)) (Wakida, 2014)



prosecutor's offices.<sup>755</sup> In April (2015) HoPD began a CALEA re-accreditation (described in Chapter 3), which included a public testimony phase. One of the requirements necessary to be re-accredited by CALEA is to make available for public viewing all department policies. HoPD ran an ad in the local newspaper noting how policies would be made available for public review, but required the public to view them within the confines of HoPD headquarters.<sup>756</sup> HoPD printed three copies of their policies which were on display in their central headquarters, which required citizens to 1) sign into the main police Headquarters, 2) walk through a metal detector, 3) present state identification, 4) be searched by police, 5) have bags opened and checked, and then 6) undergo questioning and a warning as to the handling of the actual policy booklet. Several of the students and I went and saw policies and noted how HoPD's and CALEA's interpretation of the word 'accessible', was troubling.

Noting how this appeared to be another demonstration of HoPD's feigned attempts at transparency, I joined Hawaii State Senator Thielen in testifying at the CALEA re-accreditation hearing pointing out to them how HoPD's policies were extremely secretive and not in line with CALEA's standards. I highlighted to them how outside far outside of CALEA guidelines HoPD operated by giving them multiple examples including HoPD's policy allowing them to have sex with prostitutes which made national news.<sup>757</sup> As I have outlined previously as being the problem with the accreditation method of accountability, despite CALEA hearing testimony by lawmakers, the public, and myself as to the problematic issues with HoPD policies CALEA re-accredited HoPD as meeting their "gold standard."<sup>758</sup> This allowed police managers to use the

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755 (Johnson, Chesney-Lind, & Chagnon, 2014 (T))

756 (Khno2 web staff, 2015 (info))

757 (Hathaway, 2014) (Kelleher, 2015 (SWP)) (Lincoln, 2014) (Steogerwald, 2014)

758 (Kerr, 2016 (GSW))

CALEA rating to confuse legislators and the public as to whether this meant their officers were trained and licensed similarly to other states. During this same period of time where the State legislature was attempting to pass police reform in response to the public outcry over the Cachola fall-out, the Honolulu County Council had also met and conducted a separate commission into the Chief Kealoha's handling of the Cachola incident in September (2014).

Unlike the state legislature which was focused on trying to change state law, the county councils remedy involved creating a Honolulu based committee called the Domestic Violence Response Task Force (D.V.R.T.F).<sup>759</sup> Councilmember Carol Fukunaga, who introduced the legislation, was successful in positioning the committee within the Office of the Honolulu City Clerk which ultimately was an extension of the County council, thus avoiding the Mayor's veto ability. In March 2015, the Domestic Violence Task force met and began to appoint its leadership, and discuss how best to retrain police on domestic and police-based violence against women training. Unfortunately, while several domestic violence advocates and educators were appointed to the committee, Chief Kealoha was once again allowed to politically sabotage the committee's efforts by appointing his training commander (Lester Hite) as the co-chair of the commission.<sup>760</sup> This put police managers in charge of a commission designed to oversee them.

HoPD Major Hite was problematic based on his views as to what constituted retraining and his ideas on how best to address community concerns. This became apparent when in September 2014 Major Hite had testified in front of the Honolulu County Commissioners as to how domestic violence training was not a priority, instead insisting 'first shooter' training was where

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759 (Kerr, 2015 (FFH))

760 (Honolulu County Clerk, 2015)

HoPD placed its priorities.<sup>761</sup> HoPD Major Hite also testified how he supported Chief Kealoha's decisions during the Cachola incident to not take action against Cachola, and saw nothing wrong with simply adding two (2) hours of domestic violence training for new officers (one for in-service) which would prepare them for domestic violence calls for service.<sup>762</sup> This ignored domestic violence advocates, criminologists, and criminal justice experts who had testified as to the necessity to overhaul the entire HoPD academy and training curriculum. With Chief Kealoha being able to appoint Major Hite to the county's D.V.R.T.F. leadership, once again, the agency to be supervised had been placed in charge of coordinating supervision; a problem the Hawaii State Coalition Against Domestic Violence executive director Marcy Lopes would eventually make clear to journalists and reporters.<sup>763</sup>

By May (2015) Senator Thielen and the Hawaii Women's Legislative Caucus had been successful in defending SB-388 (mandating county police departments post their policies online). SB-388 was signed into law as Act 30 in May 2015 by Governor Ige, thus solidifying the first break through in police reform since the Cachola incident, almost one year earlier. With the exception of Act 30 (proposed by Senator Laura Thielen) all of the other police reform legislation of 2015 which the students and I had worked towards did not pass beyond either the senate or house judicial committees. This included legislation Chief Kealoha had promised to support surrounding domestic violence training and policies during the Cachola Commission in September 2014. In fact, he and SHOPO were actively testifying against legislation designed to aid in these areas. Both SHOPO and Chief Kealoha's offices submitted testimony against SB396 & HB 456 (domestic violence victim protection bill), and SB568 & HB1210 (both of which

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761 (Hite, 2014)

762 (Kealoha, 2014 (CCH))

763 (Civil Beat Editorial Board, 2016 (NNL))

addressed statewide training and standards for police which would have allowed experts to begin to overhaul the curriculum for police training statewide). All four legislative bills were designed to improve domestic violence and mental illness training for officers, but were ultimately defeated, in no small part, due to the testimony against them by both the union and county police managers. This brought a new round of public criticism against Chief Kealoha, his command staff, and SHOPO.<sup>764</sup>

According to a Civil Beat editorial in Feb 2016, centering on the number of police fired being reflective of poor leadership and a ‘culture of corruption’ surrounding police-based violence against women, Marci Lopes (Domestic violence activist and D.V.R.T.F board member) noted how Chief Kealoha was a major part of why reform efforts were being obstructed, noting,

“In the outrage prompted by the Cachola case, Kealoha assured legislators and community leaders that he understood and was responding to their concerns. He promised a zero-tolerance policy for domestic abuse by cops and twice last year allowed representatives of the Hawaii State Coalition Against Domestic Violence to train new police recruits. That group’s executive director, Marci Lopes, told Civil Beat that the coalition provided significant input for new policies and procedures the department said it was creating for domestic abuse cases. A year later, Lopes said there’s no indication those promised policies or procedures have been put in place. Instead, Lopes says she is alarmed by a management appointment that she sees as a step backward.”<sup>765</sup>

By May (2015) it became clear how Chief Kealoha and SHOPO had been successful in their efforts to block legislation. The two men (Police Union President Ma’afala and Chief Kealoha) used two key legislators to obstruct reform efforts, convincing them not to give a hearing to the legislative bills in their committees, effectively killing the bills. These two legislators successfully killed eighteen of nineteen (18/19) or 94% of all police reform legislation during the 2015 legislative session. The lone bill, Act 30 (SB388), was the only piece of legislation to pass into law, but was pivotal in ultimately opening gateways to reform during the 2016 legislative session. Without Senator Thielen’s legislation (Act 30), there would have been no way to make

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764 (Grube, 2015 (PCH))

765 (Civil Beat Editorial Board, 2016 (NNL))

further progress as the HoPD policies would have remained secretive. In June (2015) HoPD complied with Act 30's mandate, and posted all of the departmental policies onto their county funded website. Having worked with my classes to submit supportive testimony for the 94% of legislation which did not pass, my students felt devastated and deflated until I explained to them how important Senator Thielen's bill (Act 30) actually was to any future efforts to reform HoPD and address continued police-based violence against women and the mentally ill.

I immediately began to re-energize the class into researching and analyzing the newly posted HoPD's policies, which were now publicly accessible. Until this change, many Honolulu residents didn't even understand HoPD had a vast number of policies mandating officer's conduct including such issues as being polite and not swearing at them or prohibiting officers from being discourteous. Many Honolulu residents (and by evidence many officers) were not even aware HoPD officers are not allowed to insult or demean citizens. Realizing this, I polled my classes asking how many students had had a negative citizen contact with a HoPD officer. Every student (without exception) who was a long-standing Honolulu resident openly admitted they had been yelled at or demeaned by HoPD officers in the past. When I showed my class the new online policies prohibiting this conduct there was uproar, as many of them were tickled and floored understanding (at that moment) how much they didn't know and how important it was to teach others of this tool. The first policy I showed them was how according to HoPD Police

2.21, Article VIII, Section (D)(2):

"Officers and civilian employees shall be courteous when dealing with the public. They shall refrain from using harsh, violent, degrading or insolent language that could be construed as being directed at a member of the public. When requested, officers shall courteously furnish their names and badge numbers both orally and in legible writing." <sup>766</sup>

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766 (Honolulu Police Department, 2016, p. 2.21)

The classes were so excited to learn a policy actually existed which mandated police courtesy they all (collectively) asked to study what the other policies existed which they may not know about. As class assignments, I divided the students into teams and assigned each team a cluster of HoPD policies to read and assess. The students then assessed the existing policies (in 2015) looking for obvious methodological or ideological flaws. I, again, conducted daily classroom discussions on whether the policies being presented by students met national best practices as was outlined by our criminal justice and criminological textbooks. Using the nineteen legislative bills as a guide to what law-makers considered problematic areas of police oversight with HoPD, I asked students to identify weaknesses in existing HoPD policies which may explain or contribute to those outlined in the failed 2015 legislation. This led to me being able to identify how many of the legislative reforms which had failed could actually be corrected through policy revisions or county fixes.

One of the first policies students and I assessed was the family violence reporting and response policy, (HoPD Policy 4.18). The students assessed the policy against both SB396 & HB456 (Domestic Violence Victim Protection Acts) which had just failed to pass the state legislation. The students' assignment was to attempt to find whether HoPD policy changes could address the concerns outlined in failed legislation. After several weeks of working with the students by answering questions and aiding in their critical analysis, we (together) found seven areas where 4.18 could have been rewritten by Chief Kealoha and his staff, and which would have addressed law-makers concerns outlined in SB396 & HB456. These policy revisions suggestions included:

1. Alleviating police-family violence victims from being mandated to sign a sworn affidavit (as was policy).
2. Mandate officers to document any allegations, suspicions, or evidentiary based complaints of domestic violence.
3. Ensure supervisors respond to all family-violence scenes
4. Have on-call victim counselors available to respond once officers secure the scene.

5. Train officers with where best to direct victims
6. Mandate arrest where evidence of violence is present by video, complaint, or evident injuries
7. Re-train officers to understand that the State is the victim, and the person assaulted is a witness. Once this is understood, the officer becomes the determinant of arrest based on probable cause rather than placing the burden of arrest on the battered individual.

This analysis was repeated for each of the eighteen (18) legislative bills which had been defeated within the 2015 legislative session. The final product of this analysis was a 300 page, 11 step set of recommendations detailing where changes to 1) HoPD policy, 2) Honolulu County charter, 3) Honolulu Police Commission, and 4) D.V.R.T.F. leadership would be able to address almost every legislative concern brought about by the 18 failed 2015 state legislative bills. In late June (2015), after consolidating all of the policy work the students and I had completed, I attempted to meet with eight County officials who I identified as being key in public safety policy reform and which I had included as part of my research with the University (IRB-HSP #23321, outlined below). Sending out requests for meetings, I offered to submit all of my questions and comments before meeting with these officials. Unfortunately, only two of the eight county officials I requested to meet with were willing to participate with the data collection:

Councilmembers Carol Fukunaga and Kymberly Pine. Although very helpful, Councilmember Fukunaga made clear how she felt police reform involving domestic violence law was better handled by state legislators then county officials and how she understood the Hawaii sunshine laws forbade her from discussing such topics with other county legislators outside of official hearings. Learning a great deal from my interview with Councilmember Fukunaga, I worked with students to prepare a detailed summation of our HoPD policy work for my next interview with Councilmember Pine. The student and I had consolidated our 11-step outline into a presentation which we planned to show Councilmember Pine, thus allowing her to see how the county could be effective in reforming police. Accompanied by the criminal justice bachelors

valedictorian for Remington College for Spring 2015, I met with Councilmember Pine in June (2015) where I presented all of the work done by the students and I which surrounded county level remedies to identified problems brought out by the 2015 failed state legislative bills.<sup>767</sup>

Among other recommendations, these suggested improvements included addressing 1) the composition and expertise of the Honolulu Police Commission (HPC), 2) several specific HoPD policies, 3) the D.V.R.T.F. leadership, and 4) County Charter shifts aimed at greater external oversight of police management.<sup>768</sup>

Councilmember Pine, although impressed, made clear she alone was not in a position to push for public safety reform, as she was not in charge of the county's public safety committee.

Councilmember Pine told us privately how women's safety and police violence directed at women was a central concern of hers after being the victim of violence where HoPD was dismissive of her concerns involving her safety. Although the state legislature attempted domestic violence legislation again in 2016, state law-makers again were unwilling to concede where domestic violence reform would be best handled with state level policy. Again, these legislators were misinformed due largely to submitted testimony by Chief Kealoha and SHOPO's President (and HoPD lieutenant) Ma'afala. All of the 2016 state level domestic violence reform bills were defeated in similar fashion to those of 2015, once again demonstrating the power of police influence within the Hawaii state legislature. However, where the state has stalled Honolulu county made small steps of progress.

One of the proposals I had outlined to Councilmember Pine during our meeting involved suggested changes to HoPD's policy involving Domestic Violence (Policy 3.26). In the

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<sup>767</sup> (Hunger, 2015)

<sup>768</sup> Ibid



summarized outline I presented to her was the proposed retraining and rethinking how police interacted with domestic violence calls. The students and I felt having an outside eye on scene with police may cut down on the ability of responding officers to side with their co-workers and intimidate spouses of police officers or other victims from reporting violence. Our suggestion was conceptualized based off of SB 396 (A bill by Senator Thielen protecting domestic violence victims) and HB456 (A bill by Rep. Belletti which also sought to protect domestic violence victims). While both legislative bills and bills proposing similar reforms in 2016 were repeatedly blocked on the state level, the county has made a change on their own to address the problem. Days before Chief Kealoha was forced to step down, HoPD announced a new pilot program named: *Safe on Scene* (SOS)<sup>769</sup>, aimed at addressing domestic violence shortcomings as were outlined in my proposal.

*Safe on Scene*, began due largely to a \$200,000 grant provided to the Domestic Violence Action Center (an advocacy group working with the D.V.R.T.F),<sup>770</sup> and is designed to have trained crisis counselors ride with HoPD officers to domestic violence calls for service (a suggestion made by the students and I in the 2015 presentation to Councilmember Pine involving the outside lens).<sup>771</sup> While the program is a county level remedy serving only the most affluent area of Honolulu (Hawaii Kai), and then only on certain hours and days of the week, if successful the program could be duplicated and expanded statewide. While the students and I had no direct influence into the creation or passage of this new legislative tool, we were participating in meetings with County council members who ultimately did participate, and were influential, in aiding the D.V.R.T.F in creating this new legislation. While admittedly only a minor step forward, it

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769 (Web Staff Khon2, 2016 (DVRT))

770 Ibid

771 (Hunger, 2015)

would be false to assume no progress has been made involving how HoPD is responding to domestic violence calls. S.O.S. (and programs like it) are exactly what community policing is designed to promote, and how community policing is designed to expand. Only when police open themselves to new suggestions from advocates, industry experts, and scholars can innovative programs like S.O.S. be conceptualized and realized. As HoPD and Honolulu county councilmembers now face the prospect of working with new HoPD leadership, new opportunities exist to advance HoPD officer training surrounding domestic violence and violence against women. While state law-makers continue to work towards ending violence against women with state law, perhaps these new county mechanisms which activists have helped develop can augment policy development.

#### **4.4 Pathways to Advancing Four New Laws in Hawaii Surrounding Police Oversight**

Whatever can be said for what has been, or was not accomplished during my efforts with reforming Hawaii's policing systems, I will admit to being pleased to help legislators pass Act 161, which remains as one of the most progressive pieces of legislation centering on police reform due largely to the fact as of 2017 no other state in the U.S. has a civilian-led police homicide review board which will function independent of police and on the state level. While true that Chicago residents have restructured their police homicide review (COPA) to now be civilian-run and positioned outside of the policing bureaucracy, COPA is 1) limited to the City of Chicago, 2) is politically overseen by the Mayor, and 3) has appointed the same personnel which failed to make their old oversight system work to their new agency.<sup>772</sup> Meanwhile, Hawaii legislators have situated themselves to overcome both unmonitored police-based homicides of

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<sup>772</sup> (Crusader Staff Reporter, 2016) (Glawe, 2015) (Hinkel, 2016)

the mentally ill and the Chicago COPA model deficiencies, by (in similar fashion to the HPC in 1931) quietly becoming the first state to enact legislation allowing a fully independent civilian-run police homicide review board situated within the offices of the State Attorney General designed to oversee all police-homicides statewide.

As I previously outlined, the coalition of students and I had begun assessing and analyzing the state level proposed legislation in 2015 following my testimony at the Cachola commission. By March (2015) it was clear only SB388 (mandating police post policies online) stood a chance of becoming law. Senator Espero had continued to encourage the students and I to support reform efforts, after their efforts appeared pointless given how most bills were stopped by two SHOPO supported legislators. It quickly became clear how the Hawaiian state legislature operates differently from other state legislatures where police unions do not possess as much influence over policy decisions.



**Figure 10: Second meeting and strategy session between student coalition and Senator Espero discussing Mental Illness, State Standards, and Independent Review Board (2015)**

Much of this difference is due to historical development (as outlined in Chapter 3) and the fact there are very few state house republican representatives, and no republican state senators. This has resulted in state legislators being able to avoid conflictual or controversial stances brought forward by rivalling political parties, instead focusing on personal aspirations for power rather

than voters calls for police reform.<sup>773</sup> Having learned valuable lessons on public policy development, the students and I again decided to meet with Hawaii state senator Espero in December (2015) in order to strategize how best to overcome resistance to police reform policy. One of the issues which appeared to need our focus was police-based violence against the mentally ill. While police-based and domestic violence against women had several advocates and overwhelming media attention on how HoPD policies were inadequate in those areas, the students and I discovered there were no written guidelines or policies instructing officers on how to handle calls involving individuals suffering from mental illness.

Because several of the students, and I, were military veterans who were familiar with the issues involving police and veterans suffering from PTSD (outlined in Chapter 3) we felt strongly that attention needed to be given to this issue. We were also aware how U.S. Army SPC. Gregory Gordon, Richard Nelson, Victor Rivera, Sheldon Haleck, and Luis Lopez (all of which were discussed in detail in Chapter 3) had suffered from some form of mental illness and had been killed by HoPD officers. We were also aware of how all of the officers in those cases were cleared of any wrongdoing, in part due to their being no policies or guidelines outlining how officers should handle calls involving individuals suffering from mental illness. The class and I began to strategize how best to bring attention or resolution to this issue, as there was (and remains) no attention or recognition given to police-based violence against the mentally ill by the Honolulu media. What the students and I determined would be that it would be best to have a citizen-based oversight tool which reviewed all police homicides, thereby allowing the board to determine if police acted appropriately with their use-of-force in situations involving individuals who suffered from mental disabilities. We also determined our plans stood very little chance of

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773 (Walker, 2005)

passing into law if a strategy was not conceived on how best to overcome how SHOPO and Chief Kealoha defeated reform legislation in 2015. What this meant, was that students and I would have to determine how best to defeat the ability of the two key legislators (used by SHOPO and Chief Kealoha) to block legislation.

As I previously mentioned, evidence demonstrated how only two state legislators, Hawaii State Senator Jill Tokuda and Hawaii State Senator Keith-Agaran, had (together) been responsible for killing 82% of all of the 2015 state-level police reform proposed legislation.<sup>774</sup> At the suggestion of Senator Espero, I decided to attempt a public educational campaign targeting legislators wherein I demonstrated where Hawaii's *Iron Triangle* surrounding police legislation was skewed. The *Iron Triangle* is a theoretical concept that attempts to explain legislative policy formation, by demonstrating the interconnectivity between legislative committee members, lobbyists, and bureaucratic officials.<sup>775</sup> A brief theoretical explanation for the hypothetical function of the *Iron Triangle* is where policy creation is established by lobbyists (at one end) and the governmental bureaucrats (on the opposing end of a policy issue) developing policy. Both then make arguments upwards to the policy decider (i.e. committee members.) The committee members are (then) responsible for balancing the two views and crafting a legislative proposal.<sup>776</sup>

The problem with this model in Honolulu is how all points of the triangle were filled by police advocates, leaving the counter voice to the bureaucratic element of the *Iron Triangle* missing. In this case, the triangle points were filled by 1) the Honolulu police, 2) SHOPO, and 3) Hawaii legislators. In Honolulu, the police union acted as lobbyists rather than having independent,

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774 Based upon data collected on legislative bills in 2015 (See Appendix C)

775 (Independence Hall Association, 2016)

776 Ibid

neutral, police lobbyists. This was also a problem as SHOPO contributed to the political campaigns of many of the state legislators deciding policy, thus financially tying to the lobbyists and legislators together against public interests.<sup>777</sup> This triangular political hold on public policy has been so effective at blocking police reform; it has been highlighted by the media as being suspiciously problematic.<sup>778</sup> Even popular bipartisan legislation forwarded to Governor Ige in 2015, surrounding adjustments to prostitution laws protecting sexual victims, failed after it was opposed by the police, prosecutor and police union.<sup>779</sup>

As I previously highlighted, 82% of police reform legislation in 2015 was killed by one of two state senators (**See Appendix C**). This obstructive behavior was so evident as to be pointed to by Civil Beat Investigative Journalist Nick Grube in 2015, who wrote about how Hawaii remains as the only state who doesn't license its police officers. Noting how both Senators Keith-Agaran and Tokuda have consistently blocked police licensing legislation (in addition to other bills which totaled the 85% figure), he wrote:

“While Espero’s latest version of the [Standards Board] bill passed its first committee, it stalled once it reached the Senate’s finance and judiciary committees. Neither Sen. Jill Tokuda, who chairs the Ways and Means Committee, nor Sen. Gil Keith-Agaran, who heads Judiciary and Labor, scheduled the necessary hearing for the bill to survive this session. Tokuda said the bill was premature and needed more work before she would hold a hearing. There were too many questions about funding, she said, and several state and county agencies were worried the measure might overstep its bounds and add unnecessary bureaucracy. “Obviously, there needs to be a lot more worked out at this particular point,” Tokuda told Civil Beat in an interview. “This is not something you do just in the pressure cooker of a session. This is work that you need to do between May and December to actually bring parties together to decide what needs to happen.”<sup>780</sup>

With this skewed triangle in mind, I decided to start my educational efforts by agreeing to meet with Hawaii State Senator Sam Slom and participate in a public television program designed to educate the public and law-makers on police reform called, *A Better Day with Senator Slom*.

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777 (Grube, 2015 (NB))

778 (Grube, 2015 (PCH))

779 (Bussewitz, Hawaii Gov. David Ige vetoes bill to ban sex trafficking, 2015)

780 (Grube, 2015 (NB))



**Figure 11: State Senator Sam Slom and I filming: "A Better Day with Senator Slom" for OLELO television (2015)**

During the interview, we spoke for half-an-hour (30 mins) on why accountability and transparency in policing was important in Honolulu, and how policy was being obstructed by special interest groups. While this was an important step, my real focus was to meet with the two Senators who were instrumental in defeating the bulk of the 2015 legislative police reform bills. Because I didn't hold a position demanding attention, and I was no-one noteworthy, several legislators dismissed my repeated requests to meet with them including the two main senators I was attempting to meet with who were responsible for obstructing policy advancement. In order to attempt to overcome this hurdle allowing legislators to dismiss me, I designed a research project through the University of Hawaii in conjunction with my dissertation whose purpose was to gather data on police reform policy through feminist based interviews of certain legislators. In June (2015) I applied for, and was granted, permission by the University of Hawai'i's Institutional Review Board (IRB) to conduct this sociological study which specifically sought to answer what motivated legislators when developing or voting on police reform legislation.<sup>781</sup> My Human Studies Project (HSP) was entitled: "Honolulu Police Genderized Violence, Training, and Oversight Reform," and was authorized to measure whether law-makers and HoPD

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<sup>781</sup> (Hunger, 2016)

officials were motivated by police-based race, gender, ability, or specific incident misconduct when making policy decisions.<sup>782</sup>

After receiving authorization #23321, I began working with University of Hawaii Criminologists Dr. Meda Chesney-Lind and a group of feminist research method's graduate students enrolled in a Women's Studies certificate program with me. In August (2015), I began interviews of willing state legislators and (the two aforementioned) county officials, attempting to determine what strategies may best be effective in motivating them past being influenced only by SHOPO and HoPD objections to reform.<sup>783</sup> As I previously mentioned, several lawmakers saw our interviews as treading on politically sensitive subjects and refused or ignored my official requests for them to participate in the official sanctioned University research. This included Chief Kealoha, SHOPO President Ma'afala, HPC Commissioner Ron Takeda, and several other county officials. While most of the County refused to participate, 64% of those individuals whom I identified as being critical to public safety reform legislation in the State legislature eventually agreed to meet. All of the public officials who participated and interviewed during the project provided valuable insight and key information as to what motivated and influenced them to develop and vote for legislation in Hawaii. The interviews were enriching and valuable lessons which allowed me to better understand how to aid them in policy development and revision. Unfortunately, many law-makers asked for privacy of our conversations due to the sensitive nature involving police misconduct details, and information involving public safety.

Three of the willing state legislators who met with me in September (2015) were Senator Will Espero (Vice Chair of State Senate Public Safety Committee), Senator Clarence Nishihara (Chair

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782 (Hunger, 2016)

783 Ibid



of State Senate Public Safety Committee), and the Senator I really hoped to meet with Gilbert Keith-Agaran (Chair of Senate Judicial Committee). One thing which became evident within moments of the conclusion of the interviews was how each Senator was motivated by different local public safety issues which were reflective only in the districts they represented, and all of which appeared to not have any of the past homicides involving mentally ill residents on their ‘radar.’ For Senator Keith-Agaran of Maui, this meant HoPD issues were not a priority. His concerns with public safety involved funding, thus legislative remedies meant to address HoPD identified shortcomings were not high priorities (evident by the high dismissal ratio of 2015 public safety legislation.) This appears to be a unique element of Hawaiian politics, allowing legislators to depart Oahu and away from disgruntled Honolulu residents and media. Because his constituent’s problems and focus was an island away, and he could retreat to voters whose police issues were distinct from HoPD, connecting him to HoPD issues was not like other states where policing jurisdictional issues are interconnected. His problems were literally an island away separated by an ocean of space. Senator Nishihara, on the other hand, stressed how his focus was on the fact HoPD operated vastly different along the rural Northshore and East Coast communities of Oahu than did HoPD officers working in urban and industrialized areas where most police-based violence against women was occurring. Senator Nishihara explained how Community Policing techniques being used by certain HoPD districts included officers working directly with family elders to resolve all potential conflictual issues, and how this method of policing seems better suited for Honolulu residents than did militarized authoritarian tactics. This, opposed to the hurdle faced with Senator Keith-Agaran, appeared an easy policy or legislative fix by addressing *Weed and Seed* (Community policing in HoPD) programs, and

linking issues to how HoPD officers were handling both calls for service involving women and the mentally ill.

Meanwhile Senator Espero was in a completely different mind frame from either of the other two Senators, being highly motivated by HoPD misconduct and Chief Kealoha's leadership problems. Because Senator Espero's constituents lived near, or in areas where multiple police-based homicides of mentally ill residents, and the Cachola incident, occurred he was motivated to address reform aggressively. This was one reason I ended up working closely with Senator Espero during the 2016 legislative session, and aligning myself with his efforts and staff. At the time, I lived next to Senator Espero's district, and had experienced the type of policing many island residents complained of when interacting with HoPD officers. As I previously mentioned when discussing policy work done with students in December (2015), after we had met with Senator Espero I met privately with the Senator and asked what he intended to propose for the 2016 session. He and I sat privately in his office and eventually drew up a statewide police oversight revamping which would directly address the HoPD-based homicides of mentally ill residents, and which focused on creating two state institutions which would oversee two major issues identified as being problematic due to elevated militarization of HoPD after APEC; 1) police-based violence against women and 2) police-violence of the mentally ill. The two-pronged approach we conceptualized involved legislation which 1) created a citizen-led monitoring board of all police shootings statewide, and 2) created a state licensing mechanism to professionalize police standards of conduct and unify hiring, training, and policy guidelines (which exists as a standard tool in every state other than Hawaii.)<sup>784</sup>

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784 (Grube, 2013 (WO)) (Grube, 2015 (NB)) (Lincoln, 2016)

I explained to Senator Espero how many of the problems involving police violence against women by HoPD officers, and homicides of mentally ill veterans and residents traced back to militarized training and officer's warrior mindset (all of which I outlined in Chapter 3). After a long discussion on whether to approach reform on the micro or macro level, he explained how the 2015 approach of submitting a bill for every problem was ineffective and divided reform support in too many different directions. Instead, he suggested finding a way to muster support to address all training issues by targeting all police training deficiencies within a single legislative bill. Having personally gone through a total of three law enforcement academies, and thus three distinct licensing processes on both the federal and state levels, I felt uniquely qualified to support him and give testimony as to how a lack of state licensing and unified standards was a large contributor to mounting police misconduct and violent conduct. I also explained how not having a licensing mechanism run by experts situated outside of the existing county and state police bureaucracies whose purpose was to oversee both statewide police training curriculums, priorities, and standards was contributing greatly to multiple problems involving misogynistic views demonstrated within HoPD's unique subculture.<sup>785</sup> After long discussions, he and I agreed on a strategy wherein violence against women and police domestic violence could be addressed by legislation focused on retraining police through a statewide licensing and training mechanism. This led to him drafting legislation proposing a law enforcement training and standards board which I have previously noted is absent from Hawaii.

The second aspect of our reform concept dealt specifically with what the class and I had wanted to accomplish, and addressed the rising number of mentally ill residents being killed by HoPD officers (which I outlined in Chapter 3.) To address this issue the Senator and I conceptualized a

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785 (Grube, 2013 (MC)) (Grube, 2014 (AT)) (Grube, 2014 (NTA)) (Grube, 2015 (HELM))

statewide agency of independently situated experts who would provide an outside impartial assessment of evidence in police shootings. The board would then make recommendations to the State Attorney General, who would then be charged with prosecuting police thus avoiding county prosecutor's ability to interfere. Senator Espero and I agreed that ensuring the review board was both independent from police influence and civilian based would be best situated to begin addressing the problems with public trust which had begun with Kolin Elderts (2011) and was mounting with the recent homicide of Sheldon Haleck (2015). In addition to addressing local concerns involving these two men and the other numerous homicides committed by HoPD occurring between 2011 – 2015 (**Refer to Appendix B**), Senator Espero and I were also attempting ensure legislation addressed mounting public outrage from race-based police shootings nationwide which led to riotous behavior months earlier in Ferguson, MO. after Michael Brown (2014), New York and California after Eric Gardner (2014), and Baltimore, MD rafter Freddy Grey (2015).

As was our plan, in January (2016) Senator Espero introduced SB-2755 (Law Enforcement Training and Standards Board) and SB-2196 (Hawaii Law Enforcement Independent Review Board), among many other bills state legislators submitted which were designed to bring about police reform on the micro level. While there were many lawmakers attempting to reform very specific police problems which focused on a single area, only Senator Espero's bills were attempting to reform the industry as a whole on the macro level. Again, my students and I began to prepare amicus briefs to the legislature which testified as to which of the micro focused reform bills appeared to be good policy. Although making it to the full session SB-2755 did not become law, and thus I will discuss it more in depth at the end of this chapter. However, SB-2196 was well received by Hawaii legislators, and had a different fate.

Beginning in January, I again encouraged the coalition of students (many of whom were about to graduate and move on to Master's level work) to submit testimony supporting the legislation and work as a group. Once again, the students responded with great enthusiasm, often commenting how they felt as if they were policing the police with student based activism. With each committee approval, the students became more excited and emboldened. The students, having discussed other communities' riotous response to police race-based shootings, understood how this newly proposed bureaucracy was positioned perfectly to address trust-based problems faced by other communities who have encountered police-based homicides. Some students, like Robert Ford, went further offering verbal testimony and media interviews in an effort to build public awareness and support for the bills.<sup>786</sup> As time went on, the students became so involved as to visit other students at the University of Hawai'i at Mānoa where I was guest speaking, and share their experiences with Mānoa students.

From Jan – April (2016), the students and I attended and testified at almost every committee hearing where the two bills Senator Espero and I had worked on were being decided.<sup>787</sup> The students also (as was done in 2015) reviewed all police reform proposals through group work done and in class discussions. As was done in 2015, the students chose bills and submitted testimony. In late April (2016) it was clear our efforts to mandate police licensing, thereby reforming training standards which effected domestic violence and mental health re-training was not going to be passed to the governor. Although the strategy of pressuring key legislators to pass police-reform legislation by focusing media attention on them continuously from January to April worked, once media and our ability to testify went behind closed doors, our final push was

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786 (Bussewitz, 2016 (LMR))

787 Ibid

only able to pass half of our agenda. While in 2015 the students were devastated and looking to regroup, by April (2016) these same students (and I) were celebrating the fact we had addressed police-homicides of the mentally ill with SB-2196 (Law Enforcement Independent Review Board). In fact, SB-2196 (now known as Act 161) was just one of five important pieces of police reform legislation they had worked on which was advancing to the governor for his signature into law.

In July (2016) SB-2196-SD2-HD1-CD1 became one of four police reform bills passed into law by Governor Ige without fanfare. What I had hoped could be used politically and re-named the Elderts-Haleck Act, thereby dedicating legislation to grieving families of HoPD violence as a step towards community repair, instead went largely unnoticed and was signed into law as Act 161. As previously mentioned, Act 161 remains as one of the most progressive pieces of legislation centering on police reform due largely to the fact as of 2017 no other state in the U.S. has a civilian-led police homicide review board. This means in addition to Hawaii's legislators passing one of the first, and now longest running civilian-led police oversight agencies acts, they have also passed the first civilian-led independent police shooting board. Unfortunately, few states know of the work accomplished in Hawaii thanks to politicians who didn't want to upset SHOPO and Chief Kealoha and politicize grassroots success. Even the media focused on other issues rather than acknowledging more fully this tool's importance to the community. As a result, much of the community is still unaware of the work accomplished to pass this historic police oversight law. While funding and authorization has been created for this new board to begin operation and oversight of police shootings and homicides within the Office of the Attorney General, no action has been taken to begin seeking candidates, or operating this new reform tool. Although HoPD and other Honolulu based police have continued using deadly

force on mentally ill<sup>788</sup> and non-violent crime suspects who attempting to flee,<sup>789</sup> and police-based homicides have continued statewide<sup>790</sup>, there appears no political will to act on this legislation.

Other important police reform legislation passed into law in 2016 (without fanfare) was: 1) (SB2439) A guarantee right for citizens to film police in public places, 2) (HB1907) Mandatory Rape Kit Processing, and 3) (HB2671) Mandatory UCR reporting by all police to Attorney General. The Governor did, however, invite the press to witness him sign another piece of legislation the students worked hard to help progress; (HB1902) The Sex Trafficking Felony Law was signed by Governor Ige in 2016, after he vetoed very similar legislation the previous year acting mainly upon advice of both Honolulu Prosecutor Kaneshiro, and Chief Kealoha.<sup>791</sup> While five legislative bills were passed into law, almost five times as many which would have brought critically needed reform to police did not pass. These bills included, mandatory mental health and domestic violence training, licensing for police, police-body cameras, statewide database of fired or terminated police officers, community police funding, and many others. Despite those setbacks, 2016 was noted by journalists as one of the most progressive police reform legislative years.<sup>792</sup> I credit the work done by the student coalition which supported those bills and whose testimony is part of legislative record, as being critical behind the scenes work which directly led to law-makers' success.

Since the 2016 elections in November, several state legislators were reassigned directly due to their involvement in drafting reform of police. I am told by Senator Espero, this is a way to

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788 (Chelsea, 2017 (ADWP))

789 (Star-Advertiser Staff, 2017 (ADPS)) (Zannes, Alexander and Webstaff, 2017)

790 (HNN Staff, 2017 (BIPK))

791 (Bussewitz, 2015) (State of Hawaii, 2016)

792 (Lincoln, 2016)

politically influence issues before the session even begins. This is done by senior state legislators who banded together into political conglomerates, which then vote each other into (and others out of) control positions within key committees. These senators are then able to vote together to assign unpopular or unaligned senators into committees of lessor influence, even pressuring them to vote certain ways. Among senators repositioned away from the state Senate Public Safety Committee in 2017 was Senator Espero, who was reassigned to the State Senate Housing Committee. This change has apparently provided Senator Espero with valuable political survival lessons, as he was unwilling to promote bold reform legislation in 2017 designed to finish what was undone. Now Senator Espero has refocused his efforts toward new topics, totally away from police reform and Hawaii law-makers seeking to appease SHOPO and county police managers.

The 2017 Hawaii State senate's public safety committee was reconstituted with several state senators who were unwilling to propose or pass any police reform legislation which addressed either the continuing gap in training involving violence against women or the mentally ill or to set standards on a macro level. With 2017 legislative committee changes bringing philosophical differences as to what constitutes actual reform of police, the students and I ended our coalition with Hawaii legislators and ultimately each other. Despite my dissertation project ending, all of us took with us the valuable lessons associated with Hawaiian iron triangle policy development, and our efforts to pass laws protecting the mentally ill. With no strong advocacy to counter police managers or SHOPO, the Hawaii *iron triangle* appears ready to revert to its previously skewed form. Hopefully, this insight will demonstrate the value of outside activism being continuously directed at Hawaii state-legislators designed to counter SHOPO's powerful influence over policy and legislator's agenda.



#### **4.5 Revising Honolulu County's Charter to Repower the HPC**

As I previously mentioned throughout my dissertation, one of the biggest errors made by Honolulu county policymakers has been to follow SHOPO and the Honolulu County Attorney's advice regarding its civilian-led oversight mechanism: the Honolulu Police Commission (HPC.) I have previously outlined how depowering the HPC's ability to act as an oversight mechanism has contributed to the ability of HPC officers to develop a deviant subculture which targets women and the mentally ill. Reversing these 1970s decisions appeared critical if the HPC (civilian-based oversight at the county level) was ever to be re-established as a community-trust promoting mechanism. Also previously mentioned was how in July (2015) I began interviewing legislators as part of a sociological study being completed through an IRB approved study in conjunction with both my Women's Studies certificate and Political Science dissertation work. Besides the aforementioned state senators who were focused on state level police reform, I met with another state lawmaker who, after participating with the University sanctioned research, appeared more focused on county level reform: Hawaii State Representative Cynthia Thielen (mother of State Senator Laura Thielen.) After interviewing Rep. Thielen, I happened to attend a Women's Studies colloquium held through at the University of Hawaii, in which she spoke. Following the colloquium, I had the chance to speak one-on-one with her, where I described the work students and I had been doing with Senator Espero, her daughter Senator Laura Thielen, and Honolulu County Councilmember Pine. Rep. Thielen asked if I would meet with her and Senator Thielen (together) in Sept (2015) to discuss the ideas I presented to Councilmember Pine regarding police reform suggestions. After speaking to both Senator and Representative Thielen at the capitol, I received an e-mail from Rep. Thielen's office in October (2015) asking if I

would be willing to aid the Representative in addressing some of the suggestions I had on reversing the 1970 SHOPO repositioning of the HPC. The e-mail read in part,

“Representative Cynthia Thielen gave me your card and asked me to contact you on her behalf. She thanks you for taking the time to speak on the issue of the Honolulu Police Commission and the need for more accountability from HPD [HoPD]. Would you be able to email me three (3) key points you would like to emphasize (about the current situation, poor oversight, how the City can create more accountability, etc.)? Rep. Thielen would like to include these points in her letter to the City Charter Commission proposing that changes be made.”<sup>793</sup>

In response to the e-mail, I went back and reassessed which of the changes the students and I had completed which best would be able to move the HPC back to its original intended use (in 1931) as an oversight mechanism for HoPD. The Honolulu Charter Commission (which makes revisions in the County Charter)<sup>794</sup> meets only once every ten years and was the organization in which the police union declawed the HPC. Part of this *once in a decade process of governmental policy revision* allows the public an opportunity to make suggested changes to how governmental services operate or are structured. Understanding how I had very little name recognition and was seen as an outsider being both a Haole man and from the mainland, I knew I had very little possibility to suggest important power revisions involving either the HoPD Chief or HPC directly. This meant Rep. Thielen’s offer became a golden opportunity to allow her position as a state law-maker to demonstrate that the students’ and my assessments on how best to address the subculture of corruption through county level civilian-led oversight had merit. Her offer made possible the ability to convince other influential county law-makers on how the suggestions given to Councilmember Pine involving HPC fixes would begin to address the problems identified by four different 2015 state legislative bills focused on county-level police commission issues; SB109, SB389, SB677, and HB450.

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<sup>793</sup> (Chung, 2015)

<sup>794</sup> A Charter is a document outlining what powers and authorities are prescribed to different offices and departments. A chartered city, county or municipality is one that possesses a unique set of laws that forms the legal foundation of its local system of government. The actual legal document that articulates these laws is called a **charter**.

After comparing proposed solutions developed for Councilmember Pine involving the HPC to what may best be accomplished by amending the Charter, I picked three solutions to recommend to Rep. Thielen. These three solutions were:

- 1) To add to language to 6-1606:
  - a) creating an ability of the HPC to veto the HoPD Chief's decision in rank-and-file disciplinary personnel actions involving misconduct when divisions arise between the Chief and HPC (e.g. Helms Lawsuit<sup>795</sup>)
  - b) making the HoPD Chief's employment more to the discretion of the HPC and Mayor rather than by a pre-determined contractual period.
- 2) Mandate civilian expertise to the HPC by adding individuals with legal, judicial, or criminal justice backgrounds
- 3) Reverse the 1972 administrative clause barring the HPC from being involved in rank-and-file discipline cases.

I submitted a nine-page report to Rep. Thielen's staff outlining these remedies along with justification of why each remedy would strengthen the HPC as an external accountability tool needed to address problems at HoPD involving violence against women and the mentally ill (**See Appendix D**). I also explained how these were some of the same suggestions made to Councilmember Pine in June (2015), and which were proven solutions designed by other communities who had faced similar issues with police misconduct. In November 2015, the Charter Commission completed the public input stage, which included the testimony from Rep. Thielen suggesting my proposed recommendations (verbatim.)

In December (2015), shortly after the students and I had our second policy strategy session with Senator Espero, he showed me the Charter Commission's January agenda which included an agenda of 11 proposed changes to (Art VI, CH.16): The Police Chief and Police Commission. Among the eleven proposals were all three of the recommendations I had made via Rep. Thielen.

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795 (Daysog, 2013 (PBC)) (Grube, 2015 (PCT))

Because much of the Charter Commission activities began during a period when the students had left the island for the holidays, I decided to make the Charter Commission my own project.

Beginning in January (2016), State Senators Thielen, Espero, and I began attending Honolulu Charter Commission hearings, where we all provided both written and oral testimony as to the proposals being considered in sections 6-1604, 6-1605 and 6-1606 (relating to the HoPD Chief and HPC.<sup>796</sup>) From January – March (2016) the three of us often provided testimony countering that of SHOPO’s lawyers during the hearings over what revisions to the Charter were needed. I was focused on the need to remove the 1972 rank-and-file discipline clause contained in proposal #152(b) – submitted by Rep. Thielen. While Commissioners were divided over whether to allow the HPC to again serve as an external disciplinary body, they were much more unified on another of my suggestions which proposed converting the HoPD Chief’s position to ‘at will’ of the HPC; in effect removing the ‘maladministration’ burden of proof needed to remove Chief Kealoha.



**Figure 12: Hawaii State Senator Will Espero and I testifying at Honolulu Charter Commission (Jan 2016)**

By the end of March (2016), Charter Commissioners were signaling they intended to progress only the revision which would make the HoPD Chief ‘at will’. State Senators Espero and Thielen were present at the final public Charter Commission meeting in March (2016) where we

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<sup>796</sup> (City and County of Honolulu, 2016)

all testified in support of the proposal, and against SHOPO. As mentioned in Chapter 4, unfortunately as the three of us were trying to give the HPC greater authority to fire Chief Kealoha via a Charter change, the HPC Commissioners (under the leadership of Commissioner Ron Taketa) renewed Chief Kealoha's contract for five additional years, stunning all three of us.<sup>797</sup> This contract renewal, as I outlined in Chapter 4's analysis of Chief Kealoha, also stunned many Honolulu residents, the media, my students, other academics, and ultimately led to a slight community uproar.

In June (2016) Honolulu Mayor Caldwell, either brilliantly or accidentally, instituted another of the proposed remedies the students and I had made to both Rep. Thielen and Councilmember Pine, which had been dismissed by the Charter Commission, when he began to replace HPC commissioners with citizens possessing special expertise in criminal justice or law. Apparently understanding the argument that the students, state law-makers, and I were making when proposing this, Mayor Caldwell began replacing police commissioners without backgrounds in criminal justice with legal and judicial experts. Mayor Caldwell started his replacements of HPC commissioners by appointing Commissioner Loretta Sheehan to replace Ron Tekata.<sup>798</sup>

Although never a police officer, Commissioner Sheehan's background as both a civil lawyer and Domestic Violence advocate (who noteworthy also testified at the Cachola Commission in Sept 2014) was exactly what the students and I had in mind when making recommendations to Rep. Thielen. Mayor Caldwell's good judgement did not end with Commissioner Sheehan, as was evident by his next appointment of ex Hawaii State Supreme Court Justice Steven Levinson.<sup>799</sup>

These nominations by Mayor Caldwell, effectively, allowed two of the suggested remedies we

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797 (Civil Beat Editorial Staff, 2016 (CPR))

798 (Pang, 2016 (NPCS))

799 (webstaff, 2016 (NPCC))

had made about HPC composition and power to be realized if voters repositioned the Chief to become an ‘at will’ contract decision made by the HPC.

As the Mayor was making headlines with his new commission appointments Senator Espero was meeting with me to notify me that the Charter Commission had finalized the amendment language, thus allowing voters to decide the matter during the November 2016 election. Upon hearing this I notified my students and asked if they would begin talking to their friends and families, educating them on what this Charter Amendment meant and urging them to vote to support the amendment. The Charter Commissioners further aided our ability to educate voters by positioning the amendment as the first charter change voted on, or Proposition #1. When the students heard the news, they couldn’t believe their suggestion made almost a year earlier was going to be voted on, and immediately began organizing themselves into grassroots educational cells whose purpose was to ‘spread the word on Prop 1’. Each student agreed to speak to a certain number of people a week, and would report back to each other on their progress. Meanwhile, I continued to work with Senator Espero on ways to keep the media interested in Prop #1 as the November election approached, knowing the Presidential vote between Clinton and Trump would be taking much of the attention away from local issues.

My fears that Prop #1 would be a misunderstood and unpopular amendment were put to rest almost immediately. Instead of there being a lull in HPC – Chief Kealoha news, almost immediately following her appointment by Mayor Caldwell, HPC Commissioner Sheehan began to demonstrate why having legal experts question police managers brought a different level of oversight and accountability of police than did a board who lacked legal and criminal justice

expertise.<sup>800</sup> Commissioner Sheehan made clear she was dedicated to ridding HoPD of a culture of corruption and poor leadership which was responsible for so many of the issues describe in Chapters 3, and 4 surrounding police-based violence against women and the mentally ill. By October (2016), just one month before voters would decide on Charter Amendment 1, Commissioner Sheehan had begun reinstalling faith to many Honolulu voters that there were clear divisions between HoPD and some of the HPC Commissioners, which effectively gave teeth to Prop #1 should it pass. In a final push to confuse and convince voters against Prop #1, SHOPO and Chief Kealoha came out against the proposition in August 2016. Despite their efforts, their lack of support didn't derail student, state legislators, media elites, other University of Hawaii Criminologists, and my efforts to educate voters by publicly speaking out in support of the amendment.<sup>801</sup>



**Figure 13: Panel discussion on Charter Amendment #1 - PBS's "Insights on Hawaii" - Oct 2016**

In November (2016) Honolulu voters overwhelmingly passed the proposed Charter resolution with an 82% approval (numbering over 220,000 votes.) Just days later, the Honolulu Corporate Council once again became involved on behalf of SHOPO and Chief Kealoha, stating that,

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800 (Kawano, 2016 (NCA)) (Kawano, 2016 (RKL))

801 (PBS Hawaii, 2016)

although the voters had spoken through their voter mandate, because the HPC had renewed Chief Kealoha's contract in March (2016) he was grandfathered passed this new voter-based mandate.<sup>802</sup> Only weeks later, in December (2016), the FBI issued a target letter to Chief Kealoha for public racketeering (described in detail below), which placed decisions of trust back into the hands of the HPC on whether to terminate Chief Kealoha or to retain him. Now that Honolulu residents have spoken via their vote, it is up to them to keep a close eye on the HPC. It is clear that new divides exist between the old Commissioners who are adamant in their calls to ignore past lessons and look to the future, and new Commissioners who are willing to hold police accountable and see the HPC as an oversight mechanism.<sup>803</sup> Now that the HPC has the power to appoint and fire the HoPD Chief, it is hoped that future Honolulu Mayors will see the wisdom of replacing non-expert police commissioners with knowledgeable replacements (like those made by Mayor Caldwell), and facilitating the HPC to be the tool in addressing continued malpractice by HoPD management and officers.

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802 (Kawano, 2016 (CFCNA))

803 (Kawano, 2017 (KPO))



## **CHAPTER 5**

### **MANAGEMENT AND LEADERSHIP'S IMPORTANCE IN MODERN POLICE**

#### **OVERSIGHT SYSTEMS**

##### **5.1 Roadmap to Lessons in Police Management and Leadership**

In this chapter I begin by describing the difference between leadership and management in modern policing bureaucracies before describing how these concepts are critical to systemic oversight advocated by police union leaders and police managers. Next, I will compare how these concepts intersect the leadership and management within HoPD under the Kealoha administration. This analysis is important when comparing how the HPC rated Kealoha in the midst of a growing scandal involving the Chief and his command staff, and growing community discontent with police services in general. If leaders and managers are not held accountable for their actions by civilian oversight mechanisms designed to do so, then the very tools designed to repair community relations (civilian-led oversight) end up contributing to the appearance of police-political interconnectivity. This appearance of collusion between external and internal oversight tools can ultimately further community animosity towards police, which spreads to other aspects of local, state, and federal governmental services, agents, or policy.

Next, I examine how subcultural norms in policing are both allowed to manifest by police managers, and are directly impacted by the values and actions of the bureaucracy's leader. This is important in assessing why police-based violence against women and the mentally ill were allowed to increase, and what underlying causes may have been less apparent to the public. I tie this analysis into how the HPC empowered maladministration within HoPD rather than using their authority to confront mismanagement. By making Chief Kealoha's job evaluation a

political tool rather than a true and critical evaluation of the police leader's performance, they cost tax-payers millions of dollars in legal settlements and ultimately a settlement to retire a problematic police chief. Finally, I document my experiences in attempting to educate the public on police maladministration in an effort to provide others with tools on how best to formulate strategies in this area should they determine similar issues exist within their police agencies' managers. While Chief Kealoha, members of the HPC, and my experiences are used to demonstrate teachable moments, my examples of failures and missteps are not meant to slander, besmirch, or focus a limelight on any one agency or person. Instead these lessons are meant to provide others with examples on how and what form maladministration takes, and to allow advocates, scholars, law-makers, and police oversight agents examples from which to formulate new strategies towards reform.

## **5. 2 Management vs Leadership in Modern Police Bureaucracies**

Once new bureaucratic models of policing based on professionalization had been instituted, so had managerial pathways of accountability (chains-of-command). As the new models became standard, the difference between managerial duties and leadership qualities became more important for organizational leadership to comprehend. This distinction is also important for my analysis into how the chain-of-command and organization's leader influences behavior of the rank-and file. *Management can best be thought of as the "administrative ordering of things-with written plans, clear objectives, detailed and precise job descriptions, and regular evaluation and performance."*<sup>804</sup> *Organizational leadership is a distinctly different concept and is better thought of as, "working with and through individuals and groups to accomplish*

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804 (Hess, Orthmann, & Ladue, 2016, p. 61)

*organizational goals.”<sup>805</sup> Both of them are essential to the development of organizational culture, and thus need further deconstruction.*

Another important change which occurred when police bureaucracies were professionalized was how accountability largely relied upon managing individual behavior. This concept is directly linked to frames of supervision. Within Wilson’s police bureaucracies the idea of management meant to basically take charge of, or to have control over, something or someone.<sup>806</sup> According to police management specialists Hess, Orthmann and Ladue,

“Management is the process of using resources to achieve organizational goals.”<sup>807</sup>

Criminal justice leadership instructors Bennet and Hess add slightly to this narrow concept adding,

“Manage means to control and direct, to administer, to take charge of.”<sup>808</sup>

Both groups of authors point to positions of management in modern police bureaucracies as being expected to aid with deciding: 1) the organization’s goals and objectives, 2) plans to meet those agreed upon goals, 3) how to distribute departmental resources, and 4) ways to increase labor productivity and efficiency.<sup>809</sup> Hierarchies of managers are constructed into the aforementioned chains-of-command whose appointments are based largely upon recommendations made by the organization’s leaders. Within the models reconstructed idea of increased efficiency and productivity is the concept of supervising rank-and-file adherence to organizational rules and standards. Supervision is a concept which is usually centered upon ensuring efficient daily operations of the organization. Hess, Orthmann, and Laude note,

“Supervision is overseeing the actual work being done and making sure the activities are effectively implemented by those responsible for doing so.”<sup>810</sup>

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805 (Bennett & Hess, 2007, p. 43)

806 (Hess, Orthmann, & Ladue, 2016, p. 38)

807 Ibid (p. 38)

808 (Bennett & Hess, 2007, p. 28)

809 (Hess, Orthmann, & Ladue, 2016, p. 38)

810 Ibid (p. 38)

When discussing political interconnectivity, authority and power placed into managers is political and can be either formally or informally recognized within a specific rank or position. Authority is best thought of as having a legal or policy-based ability bestowed on an individual to accomplish goals and may include influencing other individual bureaucrat's behavior, whereas power is the ability to motivate others to act without having been officially sanctioned to do so.<sup>811</sup> Bennett and Hess summarize this idea writing,

"Authority and power both imply the ability to coerce compliance, that is, to make subordinates carry out orders. Both are important to managers at all levels. However, authority relies on a law or order, whereas power relies on persuasion."<sup>812</sup>

To be considered an effective manager, certain skills must be demonstrated through the aforementioned merit system of advancement. These skills include the ability to communicate effectively, motivate, and lead. This has also been summarized by Bennett and Hess who write,

"Basic management skills include technical skills, administrative skills, conceptual skills and people skills."<sup>813</sup>

Given Bennet and Hess's description of management having an understanding of technical, administrative, conceptual, and people skills, I argue that reconceptualization of training and focus, and how HoPD was allowed to operate after APEC lay directly in the hands of Chief Kealoha and his command staff. Any argument made by HoPD managers that personnel issues, community relations, or methodological control of the department lay outside of their realm of influence would be reflective of varying degrees of maladministration or mismanagement.

Technical skills can best be described as having developed a full understanding of the fundamentals necessary to police in modern society. These include gathering evidence, interviewing suspects, searching crime scenes, and many other skills developed through daily

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811 (Bennett & Hess, 2007, p. 29)

812 Ibid (p. 25)

813 Ibid (p. 30)

policing activities.<sup>814</sup> Administrative skills are developed through writing reports, directing others, and having an ability to organize several tasks simultaneously.<sup>815</sup> Conceptual skills are understood as critical thinking based skills and include the ability to: see the big picture, problem solve, think in terms of future effects to current solutions, or understand not only the letter of the law but also the spirit of the law.<sup>816</sup> Finally, people skills include an ability to communicate ideas clearly, work effectively with other managers and the chain-of-command, and to discipline and inspire others effectively.<sup>817</sup> As previously stated, all of these skills are basic for managers and leaders to possess.

Modern police managers are also expected to understand concepts of authority, responsibility, and delegation before they are appointed into the chain-of-command by the organization's leaders. Authority, again, means the power to enforce laws and policies and is granted by rank or position.<sup>818</sup> Responsibility means to be answerable, liable or accountable for one's own actions and those that they have influence over through their rank or position.<sup>819</sup> Delegation is a transferring of individual authority and means more than 'passing the buck' or 'dumping' on someone else. Delegation can be summarized as empowering another to successfully accomplish a desired goal without micromanaging tasks or individuals while they do it.<sup>820</sup> There are many management styles, which have been researched and publicized, as well as many books suggesting management styles in specific situations. My focus on management, however, is simply to acknowledge how it is a distinct concept from leadership.

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814 (Bennett & Hess, 2007, p. 30)

815 Ibid (p. 31)

816 Ibid (P. 31)

817 Ibid (p. 31)

818 (Hess, Orthmann, & Ladue, 2016, p. 39)

819 Ibid (p. 39)

820 Ibid (p. 39)

When defining management, I previously noted how modern police bureaucracies require individuals who are appointed into management positions to be both efficient and inspirational leaders. Hess, Orthmann, and Ladue point to this fact writing,

“In the 21<sup>st</sup> Century, most people resist being managed. They seek leadership. A true leader has the potential to influence from any position in the organization, formal or informal. Leaders solve problems, maximize potential with competent associates, take safe risks, take responsibility, move forwards, leads by example, and have vision. Managers may or may not be leaders, and leaders do not have to be managers.”<sup>821</sup>

Both leaders and managers within modern police organizations are expected to enforce organizational policies and rules. Modern rules and policies directed towards accomplishing the organizational goals are typically also a means by which to manage individual behavior. This means that within the rules and policies of an organization are important guides as to what rank-and-file behavior is tolerated or expected, thus creating a subculture. I will return to this important concept, but first must complete my analysis of the difference between modern leadership and management concepts.

Leadership in modern police bureaucracies should be framed as meaning more than simply managing the department’s resources or individual’s behavior through standardized departmental policies. Robert Vernon in “The Character of Leadership” in *Law and Order Journal* outlines five characteristics which are demonstrative of an individual’s ability to be a strong leader;

- “1) The ability to clearly understand and articulate the goals,
- 2) The confidence to be out in front and show the way to the goal,
- 3) The ability to convince people to follow as an act of their free choice,
- 4) The desire and ability to help people develop and pursue excellence and
- 5) The capability to inspire people to achieve their full potential.”<sup>822</sup>

What Vernon refers to as ‘the confidence to be out in front and show the way to the goal,’ may also be referred to as *leading by example*. The lead by example principal, based on my experiences as a former soldier and law enforcement officer, is central to identifying influential

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821 (Hess, Orthmann, & Ladue, 2016, p. 62)

822 (Vernon R. , 2004, pp. 60-63)

leaders. Whether behavior is considered deviant or exemplary is political, but leadership and management behavior is less so defined and prescribed based on policies, laws, and rules. This again links rules and policies to organizational behavior.

Vernon goes on to write in, “It’s About Character,” in *Law Enforcement Magazine*, how modern research has gone even further in exploring leadership, and identified four character traits that are typically sought in leaders. Vernon notes;

“Research concluded over the past 110 years has identified four highly valued traits in leaders: 1) Being a good listener, 2) admitting when they’re wrong, 3) giving recognition and 4) keeping commitments.”<sup>823</sup>

What this definition omits is any reference of how leaders also tend to share common experiences to, or with, those who are managed (both within and outside of the organization.) Being able to communicate these shared experiences with the rank-and-file of the organization, or the community, is important to developing pathways of trust which rely on the organization’s leader being perceived as creditable. Setting the example, or leading by example, is also a large part of what is expected of individuals holding positions of political power and authority, especially within military or policing models. All of this is best described by Hess, Orthmann, and Ladue who note,

“Leadership creates a special bond that has to be earned. To build and maintain credibility; it is necessary to clarify values, identify the wishes of the community and employees, build a consensus, communicate shared values, stand up for beliefs and lead by example.”<sup>824</sup>

Having now clarified the differences between modern concepts of leadership and management, it is important to note how (in modern police bureaucracies) both concepts are distinct and simultaneously interconnected. Author Elizabeth Edersheim quotes Peter Drucker (regarded as the father of modern management), in *The Definitive Drucker*, as stating; “Managers do things

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823 (Vernon B. , 2005, p. 57)

824 (Bennett & Hess, 2007, p. 45)

right; leaders do the right thing.”<sup>825</sup> This statement goes directly to the principle of setting the example when leading, which is critical to influencing both behavior, and to setting the tone and values within the organizations subculture.

Like management, there are several types of leadership style. Autocratic leadership, normally characterized as “*managers making decisions without participatory input*,”<sup>826</sup> has advantages in the ability to dictate policy without interpretation. Laissez-faire leadership on the other hand, which is best defined as “*nonintervention and almost everything runs itself without direction from the leader*,”<sup>827</sup> would appear better suited for organizational managers whose rank-and-file behavior reflects strong self-governing ethical behavior. Effective leaders are considered to be individuals who know how to gauge the environmental stimuli present against what managerial styles best illicit ethical bureaucratic behavior. This fact is made evident by Hess, Orthmann, and Ladue who note,

“A good leader knows being the boss does not mean bossing. Rather, it means giving employees the resources, training, and coaching they need and providing them with information so they can see their organization’s mission. It means showing how what is important to the department is also important to them: ‘People are more likely to follow someone they sense is sincerely interested in helping them fulfill their goals’...Leadership creates a special bond that has to be earned. To build and maintain credibility, it is necessary to clarify values, identify the wishes of the community and employees, build a consensus, communicate shared values, stand up for beliefs, and lead by example.”<sup>828</sup>

As I alluded to earlier, leading by example is also central to the idea of not having other bureaucrats or managers see you as being hypocritical. Being an effective leader, and knowing how to manage, also requires as sense of balance between the two concepts. Often younger managers or bureaucrats may inspire conduct but know little about how to effectively navigate within the bureaucratic structure or of leadership principles. This can be seen in individuals who inspire others into deviant, unauthorized, illegal, or otherwise socially condoned behavior. It is

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825 (Edersheim & Drucker, 2007, p. xi)

826 (Hess, Orthmann, & Ladue, 2016, p. 50)

827 Ibid (p.51)

828 (Hess, Orthmann, & Ladue, 2016, pp. 64-65)



also evident in managers who are the constant focus of other bureaucrat's scrutiny or condemnation. Bennett and Hess point this out writing,

"To be truly effective, those in positions of authority combine managerial and leadership skills, all leadership and no management would be as serious a problem as the current imbalance in the other direction in many organizations."<sup>829</sup>

As I previously mentioned, managers authorized to act as part of the bureaucracy's official chains-of-command structure are formed into communications chains for the purposes of disseminating the organizational leader's wishes and values through formal channels of communication.<sup>830</sup> According to Hess, Orthmann, and Ladue, communication channels used by police agencies are best understood as follows:

"Channels of Communication are the official paths through which orders flow from management to personnel who carry out the orders. Most Organizations set up these channels carefully and for good reasons. They are 'highways' for orders and communications to follow and keep everyone aware of events. They coordinate the organization into a whole, integrated unit instead of a series of parts."<sup>831</sup>

Each successive rank moving up the chain is designed to align the individual's occupational goals to be more in line with organizational and leader's goals. This is particularly important in policing given how street-level policing bureaucrats are constantly navigating policy (and law) in an effort to provide services.<sup>832</sup> Jurisdictional police chiefs, or managers, are the most culpable for organizational goals given how many of them are set by city managers or the jurisdiction's residents, and must be politically translated into policy. This again ties back to how and why concepts interweaving police and politics cannot separate. Should a Mayor want a parade for Christmas as a celebration, they must be able to count on police to provide them with the capability of closing streets and providing public security. In new models of policing a Chief, like a military Admiral or General, was meant to be the individual that guides departmental

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829 (Bennett & Hess, 2007, p. 47)

830 (Lipsky, 1980, pp. 18-23)

831 (Hess, Orthmann, & Ladue, 2016, p. 10)

832 Ibid (p. 18)

behavior and conduct, but should not be influencing local politician's other than as one of many official department heads.

Concepts involving how an organization's leader's decision-making influences chain-of-command behavior normally center on the fact that modern police bureaucratic models require the organization's leader to make decisions surrounding all aspects of departmental behavior.

According to Hess, Orthmann, and Ladue, a large aspect of gauging how effective a leader is, is to examine their decisions. They write,

"Decisions may deal with problems that are trivial or critical, short term or long term, personal or organizational. They may also be categorized by the level in the organizational hierarchy at which they are made. The executive level mainly deals with conceptual problems and alternatives; middle management most frequently makes administrative decisions, and first-line supervisors most frequently make operational decisions."<sup>833</sup>

To understand fully how intertwined an organization's leaders' decisions are with how an organization's rank-and-file behaves, it is important to first recognize the types of decisions made within modern policing organization by its leader. Organizational decisions can be broken into three types: command, consultative, and consensus decisions.

Before discussing either consultative or consensus decisions which involve more than the leader, I will outline the importance of command decisions. Command decisions are best defined as, *"one that managers make on their own, with little or no input from others."*<sup>834</sup> An example of command decisions may include decisions that involve promotion or awards. Chain-of-command composition is largely influenced by the leaders' command decisions concerning promotion. Appointing individuals to lead the organization who have demonstrated values and conduct that is illegal or immoral, or to seek those whose past behavior is contradictory to some organization's desired mission, would then cast doubt on a leader's command decision

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<sup>833</sup> (Hess, Orthmann, & Ladue, 2016, p. 132)

<sup>834</sup> Ibid (p. 133)

making.<sup>835</sup> If a manager continuously objects to the leader's decisions, they are negotiated around or over by loyalists to the leader.

Some might object to the idea that promotions are a command decision, instead arguing that promotions and discipline in modern bureaucracies is more of a collective agreement between Human Resources (HR) and union collective bargaining agreements. Some leaders may even argue that all bureaucratic leadership decisions are now subjected to constant interference and review, as was pointed to by Chief Kealoha when describing how decisions about discipline were made in the Dowkins EEOC lawsuit. According to news reports centering on Chief Kealoha's ability to make managerial decisions about HoPD officers and managers, Kealoha stated that HR and the police union dictated what choices he made. Media stories reporting on the Dawkins lawsuit noted this stating;

"Kealoha replied, "Like the assistant chief said earlier, we did find him in violation of the standard of conduct but that was turned around by the (city) Department of Human Resources. All of these cases that we have, we take seriously, but it's not in isolation. All of these decisions are based on policies and procedures, along with the collective bargaining that we have. Also, we have to comply with the federal, state and city employment laws. So, it's not me on a whim. It's made also in consultation with the city HR."<sup>836</sup>

I argue that Kealoha's argument is a 'cop-out' and illustrates more of his inability to manage more than interference from outside agents. The authority for the HoPD Chief's decisions to rule over internal policy and demand adherence to guidelines set throughout the organization is outlined in the County Charter under section 6-1603 (g). This section of the County Charter allows the HoPD Chief a wide range of authority and power to run the department, including promotion within the ranks and the ability to discipline.<sup>837</sup> Even when examining generic police

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835 (Hess, Orthmann, & Ladue, 2016, p. 133)

836 (Lincoln, 2016 (PCG))

837 (City and County of Honolulu, 2016, pp. 6-1604(g))

models, criminologists Hess, Orthmann, and Ladue note how a leader's responsibility is to not allow outside interference with their authority, writing,

"Executive managers have full authority and responsibility as provided by the charter provisions of their local jurisdictions. People appointed to this position are to enforce the applicable laws of the United States as well as state and local jurisdiction and all rules and regulations established by local government or the civil service commission."<sup>838</sup>

If collective bargaining and HR guidelines are restricting the HoPD Chief's ability to discipline and maintain rule adherence, then it is the HoPD Chief's duty to inform his superiors (the HPC, Mayor, City Commissioners, and the public) of this fact so the politics preventing action can be resolved. When a modern police Chief begins to point the finger at outside influences making their command decisions, then it is clear that the Chief is not directing the actions of the organization but instead the organization is being influenced by agents outside of the department. If any outside forces should attempt to usurp leadership decisions, then strong leaders demonstrate their prowess by standing up to those forces and making ethical and moral arguments that support their decisions. If an organization's leader cannot fend off challenges to their leadership, as was evident by Chief Kealoha's previous argument, then clearly the leadership position is only ceremonial and true power and authority lay outside the organization. This seems highly unlikely given the multitude of legal and ethical safeguards constructed to ensure proper application of police power in our modern society. It is more logical to assume that such a leader is part of the problem rather than a victim of circumstance.

It is because of these safeguards I reiterate how it is the leader who is responsible for the decisions to both promote, and discipline within the organization. If it is assumed that an effective leader cannot blame an outside power as being responsible for decisions surrounding

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838 (Hess, Orthmann, & Ladue, 2016, p. 54)

retention, promotion and firing then it must also be assumed a leader's command decisions are critical in assessing both who is promoted and how subordinates behave who seek promotion or the leader's recognition.

Because the chain-of-command is a reflection of the organization's leader's appointments, individuals chosen for those positions usually display similar values to those of the leader. In other words, the chain-of-command's conduct can usually be seen to mimic those of the leader, in both behavior and conduct. This was the problem HPC Commissioner Loretta Sheehan pointed to when Chief Jerry Inouye began to use misdirected language to skew the number of untested rape kits HoPD was accountable for.<sup>839</sup> This was also the problem Hawaii State Senator Will Espero pointed to with Major Gordon Shiraishi, when Shirishi testified as to standards of excellence surrounding HoPD training the day following a televised report that exposed widespread cheating within the training academy of HoPD.<sup>840</sup> Because Chief, Kealoha, has used deceptive language on a number of occasions to deflect political issues, most notably when he told reporters for over a year that "I have done nothing wrong,"<sup>841</sup> when asked about federal probes into his abuse of power.<sup>842</sup> It is these same deceptive characteristics which appear to be reflected in the behavior of other managers chosen by Kealoha to lead HoPD.

Chain-of-command behavioral mimicry is also proof that an organization's leader is accountable for conduct even if it is the leader's appointee who violates policy. This remains the case unless the appointee acts outside of the will or power authorized to them by the leader, otherwise known as their official authority. If a manager does act outside of their authority, the leader must

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839 (Lincoln, 2016 (RKT)) (Kawano, 2016 (RKL))

840 (Kerr, 2016 (TAM)) (Kerr, 2016 (GSW))

841 (Mangieri, 2016)

842 (Lincoln, 2016 (PCG))

be seen to be seeking discipline on the appointee and aggressively attempting to remove them as a liability or else be recognized as indirectly authorizing the misconduct. Because this *conduct based liability* is inherent within formalized rank structures, trust must be situated between leader and appointee; hence leaders typically choose individuals that they have trust in. This trust again demonstrates the interconnection between who is chosen for chain-of-command positions by the organization's leader. The organizational leader's appointments to the chain-of-command is therefore a direct reflection of the leader's command decisions which further demonstrates how promotions are ultimately the decision of the leader.

This was what HPC Commissioner Loretta Sheehan pointed to when questioning why the city was paying over \$4.7 million dollars to settle EEOC violations within the department relating to chain-of-command misconduct involving HoPD officers,<sup>843</sup> and the point bringing my analysis full circle to the conduct of the lieutenant Kwon within the Dowkins EEOC lawsuit which took place under Chief Kealoha's management and leadership.<sup>844</sup> Even if it was the chain-of-command (appointee) which was carrying out the act, it is the Chief who was responsible for the incident once they were notified, as Chief Kealoha was in 2009 during the investigation into the Dowkins EEOC case.<sup>845</sup>

Who is chosen for chain-of-command, and how their conduct is a reflection of the leader's values and behavior, also factors into the other two types of organizational decisions which I previously explained were also important to our analysis of what shapes organizational behavior; Consultative and Consensus decisions. A consultative decision "*uses input and opinions from*

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843 (Riker, 2016)

844 (Bennet, Merit ESQ., 2016)

845 Ibid

*others; however, the final decision is still made by the one in charge but only after considering others' input.*"<sup>846</sup> Meanwhile an organizational consensus decision "*is made democratically by the group. It is a joint decision often made by committee members. For example, training priorities for the year might be decided by a committee established for this purpose. This committee might operate independently or seek input from others in the organization.*"<sup>847</sup>

Whether consultative or consensus in their construction, the organizational leader's influence in them is clear. The influence derives from either indirect input from appointees who mimic the leader's conduct and attitudes, or through direct input from the leader. Consultative and Committee decisions involving the organization's leader are usually a product of daily operations, and do not include accountability. Beyond that scope, these two types of group decisions are not as critical to my analysis of subculture influences.

### **5. 3 Police Subculture: How Organizational Subcultural Norms are a Product of Leadership Values**

When discussing rule and policy adherence in modern police bureaucracies, conduct is shaped by individual's choices, but ultimately includes the leader's values and command decisions involving rule adherence. Obviously problematic to this model is the human variable, especially if there is a deviant subcultural norm already inherently influencing rank-and-file behavior within an organization. Individual behavior norms which contribute to an organizational subcultural have been studied for almost as long as professionalization concepts has been installed in modern governmental institutions. Several books and research projects provide detailed examinations into specific problematic police subcultural norms involving gender, race,

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846 (Hess, Orthmann, & Ladue, 2016, p. 133)

847 Ibid (p. 133)

sexuality, class, and a host of other variables. Other research into police subcultures attempts to micro-detail every aspect of police decision-making that may be indicative of an organization's culture as Michael Lipsky attempts to do in his book, *Street-Level Bureaucracy: Dilemmas of the individual in public service*. Previously I outline specific problems within HoPD involving misconduct and violence against women. I also demonstrated where militarized shifts in training involving the *warrior mentality* contributed to a subcultural behavior involving domestic violence, and violence involving the mentally ill, while furthering the evidence for elevated levels of police-violence which targets women. Having already outlined how HoPD officers' criminal misconduct has constituted a deviant subcultural norm involving behavior towards sexuality, gender, and disability, it is important to establish a bridge between these behaviors and the leadership and management of HoPD in order to assess internal accountability mechanisms.

Political theorist James Q. Wilson's examination into what constitutes organizational subculture provides a foundational frame from which to begin building this bridge, noting,

"Every organization has a culture, that is, a persistent patterned way of thinking about the central task of and human relationships within an organization. Culture is to an organization what personality is to an individual. Like human culture generally, it is passed on from one generation to the next. It changes slowly, if at all."<sup>848</sup>

Wilson's definition is purposefully vague. According to Wilson, "*Organizational culture admittedly is a vague concept, but no less real than concepts such as national culture or human personality.*"<sup>849</sup> Attempting to fill the vagueness, Wilson attempts to provides a more theoretical premise from which to conceptualize his framework by adding,

"Organizational culture consists of those patterned and enduring differences among systems of coordinated action that lead those systems to respond in different ways to the same stimuli."<sup>850</sup>

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848 (Wilson J. Q., 1989, p. 91)

849 Ibid (p. 92)

850 Ibid (p. 93)



Much of what Wilson refers to ‘*systems of coordinated action*’ is what Michael Lipsky characterizes as rank-and-file bureaucratic conduct governed by departmental rules and policies.<sup>851</sup> However, I again stress how these models are dependent on individual adherence to departmental rules and rely on accountability being overseen solely within the individual officer’s organization and chain-of-command, which has been shown to fail under the management of Chief Kealoha on numerous occasions. Believing in Lord Acton’s warning noting how absolute power corrupts absolutely,<sup>852</sup> placing governmental power and authority into the hands of individuals who are not held accountable by ethics commissions or other oversight tools, is a recipe which will most likely lead to corruption. Lipsky describes how police are often lured into their own agendas rather than the goals of the organization, noting,

“Managers are interested in achieving results consistent with agencies objectives. Street-level bureaucrats are interested in processing work consistent with their own preferences and only those agency policies as salient as to be backed up by significant sanctions.”<sup>853</sup>

Rules of conduct governing bureaucracies which attempt to shape cultural habits dates back to a time well before American bureaucracies were even conceptualized, and far before American police began to professionalization. Wilson notes just how historical this conceptual tie is, writing;

“The faith in the power of rules to prevent or correct the failings of government is ancient and deeply rooted.”<sup>854</sup>

The problem with investing heavily in a model that relies on accountability being derived through policy adherence by street-level policing bureaucrats, is we (as a society) have agreed that absolute adherence to the law is impossible and therefore have allowed a leeway to be inherent in police application of power known as ‘*discretion.*’

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851 (Lipsky, 1980, pp. 16-18)

852 (Friedrich, 2002, p. 16)

853 (Lipsky, 1980, pp. 18-19)

854 (Wilson J. Q., 1989, p. 335)

Whether jay-walking, or not complying with a city ordinance, society has demanded police be given some proscribed legal wiggle-room when interpreting legislative policies' intent. Society therefore asks police to apply legal principles to specific situations only when an officer determines that the public's best interest is served. We call this political wiggle-room '*police discretionary power and authority*'. Discretion supposedly allows street-level policing bureaucrats the ability to make some ethical decisions about when it is appropriate to apply all legal codes falling between the legal scopes of infractions to petty misdemeanors. Police discretion is also heavily influenced by the organization's leadership and chain-of-command. It is important to note there are federal laws that govern when an organization's leader may not direct (or allow) discretion be used and which mandate street-level police to act with no latitude. Wilson notes rank-and-file police discretion writing,

"In the United States, we use rules- up to a point. Since many of the rules are inevitably vague, the welfare workers who administer them have a significant amount of discretion."<sup>855</sup>

There are several criminologists who have studied police discretion and its effects on police subcultural norms. My point, however, is not to assess where discretion and subcultural norms intersect, rather to point out how police discretionary powers are not meant to allow police behavior which would include throwing chairs at compliant suspects,<sup>856</sup> extorting prostitutes for sex,<sup>857</sup> or any of the other 335 liberties that HoPD officers took between 2009-2016 which found them accused of legal wrongdoing.<sup>858</sup>

Numerous accusations over HoPD rank-and-file conduct, however, points directly to a subcultural behavioral norm characterized as "*a culture of corruption*,"<sup>859</sup> which has been

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855 (Wilson J. Q., 1989, p. 337)

856 (Kawano, 2015 (Morre))

857 (Kawano, 2016 (UHVb))

858 (Perez, 2016 (BO), pp. A-1)

859 (Grube, 2015 (HELM))

documented to involve an average of 1 in 6 HoPD officers.<sup>860</sup> This, again, was what I previously outlined in chapter two, and is a result of Kealoha's direction towards militarization. Given there is also a *dark figure of crime*<sup>861</sup> (whose concepts were outlined in Chapter 1, and which surround underreporting), one must assume that actual numbers of police misconduct incidents at HoPD are higher than recorded figures of 16% of all personnel.<sup>862</sup> Whether this corruption is due to 1) individual flaws (i.e. lack of training or individual moral turpitude), 2) chain-of-command flaws (i.e. failure to supervise or failure to lead), 3) rule and policy flaws (i.e. accreditation standards not being met, or chain-of-commands neglect), or 4) leadership flaws (i.e. maladministration), the importance of individual rank-and-file behavioral norms being linked to the prescribed values of the organization cannot be overstated.

This is exactly why professionalization models dictated that individual bureaucrats follow departmental policies that outline the organization's mission, and which are developed by a leader who is accountable to those policies. Wilson emphasizes that "rules specify minimum standards that must be met,"<sup>863</sup> which is why the leader of the organization must be involved in rule and policy development when shaping organizational culture. This was the lesson learned by Chief Kealoha during the Cachola incident when Hawaii state legislators pointed to weak rules of the department contributing to heightened domestic violence rates.<sup>864</sup> Because an organization's rules prescribe what conduct is admissible, the rules contribute largely to daily organizational operations (a.k.a. departmental behavioral norms). It is also the organization's

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860 (Perez, 2016 (BO), pp. A-1)

861 A concept that not all crime is reported, which ultimately leads to underreporting in policing statistics, and was outlined in our examination into intersectionality. (Meadows, 2007, pp. 5-6,9)

862 (Perez, 2016 (BO), pp. A-1)

863 (Wilson J. Q., 1989, p. 343)

864 (Kawano, 2014 (CGH))

rules which influence what behavior patterns become prototypical of individual's subcultural values.

It is therefore impossible to begin to scrutinize individual officer's conduct, or the internal subculture within the department without holding the organization's leader responsible as it is the leader who enforces and develops the rules. This, again, is due to the fact that the leader is in charge of ensuring that the rules are adequate to the task of ensuring accountability, and obtaining operational objectives. As I indicated previously, this rule culpability for the HoPD Chief is highlighted and outlined within the County Charter, section 6-1603,<sup>865</sup> and was one of the major issues that Chief Kealoha was scrutinized for during the Cachola inquiries.<sup>866</sup>

Inadequacy of a rule to clearly outline a concept, or vagueness within a directive which leave officers unclear on how to apply law or policy, fall back upon the leadership thus proving once again how leadership ties to organizational subcultural norms.

Rules governing bureaucratic conduct at HoPD predate County Charter revisions made in 1972 surrounding section 6-1604 (Powers of the Chief), and date back to the original *Police Act* which outlined the chiefs' accountability but which also provided outside oversight via the HPC. After 1972 the Honolulu Charter's language was changed to strengthen the link between rule adhesion and the HoPD Chief. Post 1972 the Charter read that one of the primary duties of the HoPD Chief is; "(d) *Promulgate rules and regulations necessary for the organization and internal administration of the department.*"<sup>867</sup> Prior to 1972 shift, rule and policy development was the ultimate responsibility of the HPC outlined in section 6-1606 of the Charter [Powers, Duties and

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865 (City and County of Honolulu, 2016)

866 (Kawano, 2014 (CGH))

867 (City and County of Honolulu, 2016)

Functions – (Honolulu Police Commission)], and further detailed in section (a) which read;  
“*Adopt such rules as it may consider necessary for the conduct of its business and review rules and regulations for the administration of the department.*”<sup>868</sup> Previous Charter language which allowed final rule interpretation to be made by the HPC was meant to grant HPC Commissioners far deeper reaching authority than simply being a ‘sign- off’ of the HoPD Chief’s decisions, especially when conflicts arose between deviant organizational subcultural norms and the HoPD Chief’s decision to not enforce or change policy to address it.<sup>869</sup> Rules are meant to define prescribed conduct, but alone are not able to supersede an individual’s officer’s freewill.

Some seeking quick solutions on how to correct deviant subcultural norms may want to simply point to somehow ‘*training away*’ from ethically wrong behavior. However, without leadership investment in strict policy adherence, training and rules are of little consequence, as is additional training. This was what Hawaii State legislators were pointing to when asking Chief Kealoha about his investment in zero tolerance and a one (1) day punitive settlements surrounding domestic violence policy during the Cachola hearings.<sup>870</sup> According to Dempsey and Forst, police culture is developed from the collective of the organization’s personnel who have a tendency to deviate from typical social norms, making it a more important priority to oversee. They note,

“Police culture or police subculture is a combination of shared norms, values, goals career patterns, lifestyles, and occupational structures that is somewhat different from the combinations held by the rest of society.”<sup>871</sup>

Hess, Orthmann and Ladue add to this understanding of how police organizational culture can develop norms that society considers deviant, noting,

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868 (City and County of Honolulu, 2016)

869 (Civil Beat Editorial Staff, 2016 (CPR))

870 (Kawano, 2014 (CGH))

871 (Dempsey & Forst, 2016, p. 162)

"The workplace culture is the sum of the beliefs and values shared by those within the organization, which formally and informally communicates their expectations. These beliefs and values are a type of 'collective conscience' by which those within the group judge each other, and the informal workplace culture often influences employee behavior to a greater degree than the more formal commands issued by one's superior."<sup>872</sup>

Adding to this, Herman Goldstein in his article *Problem Oriented Policing*, attempts to provide even more distinctions about why strong leadership is needed in policing, and what motivates police culture, noting,

"The strength of the subculture grows out of the peculiar characteristics and conflicting pressures of the job; the ever-present physical danger; the hostility directed at the police because of their controlling role; the vulnerability of police officers to allegations of wrongdoing; unreasonable demands and conflicting expectations; uncertainty as to the function and authority of officers; a prevalent feeling that the public does not really understand what the police have to 'put up with' in dealing with citizens; a stifling working environment; the dependence that officers place on each other to get the job done and to provide for their personal safety; and the shared sense of awareness, within a police department, that is not always possible to act in ways in which the public would expect one to act."<sup>873</sup>

What these definitions warn about is a street-level police bureaucrat's immediate supervisor (a Sergeant or Lieutenant) instructing them to follow a specific rule which prohibits conduct, but if the organization's leader has set precedence by making punishment nonconsequential then the employee's behavior is more likely to follow a cultural norm dictated by the leader's unwillingness to punish rather than one "*issued by one's supervisor*."<sup>874</sup> This was a point that seemed lost on Chief Kealoha when Hawaii state legislators pointed to his failure to institute zero tolerance punitive action against rising levels of domestic violence amongst his officers.<sup>875</sup> All of this is evidence of leadership influence over an organization's behavior proves that organizational subculture is the direct reflection of leadership. If officers are marching one behind the other off to federal prison, as has been the case with HoPD officers following APEC reorganization,<sup>876</sup> we should turn to the organization's leader (Chief Kealoha) to provide answers to the obvious question: '*why?*'

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872 (Hess, Orthmann, & Ladue, 2016, p. 264)

873 (Goldstein, 1990, pp. 29-30)

874 (Hess, Orthmann, & Ladue, 2016, p. 254)

875 (Kawano, 2014 (CGH))

876 (Perez, 2016 (BO), pp. A1; A8-A9)

Police leaders who seek to avoid blame often rely on public misunderstanding of modern organizational rule development and managerial authority. As I pointed to earlier, this appears to be the tactic used by Chief Kealoha during questions surrounding the EEOC lawsuit.

Remembering how Chief Kealoha appeared to attempt to pin responsibility elsewhere it was he who stated;

"We did find him in violation of the standard of conduct but that was turned around by the (city) Department of Human Resources. All of these cases that we have, we take seriously, but it's not in isolation. All of these decisions are based on policies and procedures, along with the collective bargaining that we have. Also, we have to comply with the federal, state and city employment laws. So, it's not me on a whim. It's made also in consultation with the city HR."<sup>877</sup>

However, as was my argument when discussing command decisions, this misdirection of responsibility is what the rank-and-file point to when assessing whether strict adherence to policy is a high priority of the organization's leader. If the organization's Chief states they are no longer able to hold officers' conduct accountable, then worrying whether someone will report them for a rule violation does not carry the weight it would if the organization's leader demonstrated a zero-tolerance involving misconduct. Not conveying to individual employees or bureaucrats that policy violations and career advancement are interlinked through punitive oversight of bad acts leads to '*cultures of corruption*.' The fact that an organization's managers heavily influence overall departmental behavior is best summarized by Bennett and Hess, and Hess, Orthmann, and Ladue who note positive ways in which managers can assert their influence, writing;

"Managers can shape the workplace culture by, 1) identifying existing norms, 2) evaluating the norms –do they work for or against the department's mission, 3) encouraging positive norms and trying to eliminate negative ones through modeling and training."<sup>878</sup>

Having linked how police subculture is influence by an organization's leadership, my analysis turns toward one specific character trait found in police behavior which has also been identified

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<sup>877</sup> (Lincoln, 2016 (PCG))

<sup>878</sup> (Bennett & Hess, 2007, p. 226) (Hess, Orthmann, & Ladue, 2016, p. 267)

as being problematic, loyalty.<sup>879</sup> I specifically focus on loyalty as Chief Kealoha has (on two occasions during inquiries into department rules and policies surrounding domestic violence) pointed to loyalty as being the most important characteristic that he looks for among potential police recruits and officers.<sup>880</sup>

Loyalty, according to Chief Kealoha is the behavioral trait he sought when promoting or rewarding those under his command.<sup>881</sup> Loyalty in policing has long been seen as being a problematic characteristic that requires strict oversight to ensure that it is not skewed and ultimately misplaced. Hess, Orthmann and Ladue note,

“Many officers become furiously loyal to others in the department and begin to see a separation between themselves and society. They perceive, and often rightly so, that their very lives depend on supporting one another.”<sup>882</sup>

Loyalty to other officers becoming a higher priority than loyalty to social standards has been exposed within HoPD as a subcultural norm surrounding domestic violence. According to a review of Temporary Restraining Orders (TRO’s) filed against HoPD officers by their domestic partners, allegations of domestic abuse are almost commonplace (as was previously outlined and noted as publicly unacceptable). Rob Perez, an investigative journalist with *The Star Advertiser*, documented how overwhelming evidence exists of a subculture of misplaced loyalties within HoPD, ultimately leading to an increase of violence against women which has been reinforced and empowered by poor leadership.<sup>883</sup> Perez documents how officer’s loyalty to each other outweighs even prescribed rules designed to protect police family members, and which is clearly not dissuaded by leadership, noting,

“The responding officer and others unsuccessfully tried to discourage her [Jonelle Tsunezumi, wife of Ofc Rodey Tsunezumi] from filing a complaint, she said. ‘They tried to talk me out of it.’ Tsunezumi also said her ex-husband would threaten her if she tried calling police, saying no one would believe her over the word of an officer. The

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879 (Hess, Orthmann, & Ladue, 2016, p. 265)

880 (Kealoha, 2014 (CCH))

881 Ibid

882 (Hess, Orthmann, & Ladue, 2016, p. 265)

883 (Perez, 2016 (CTL), pp. A8-A9)



Honolulu Star-Advertiser found multiple examples of that tactic and other similar ones in its review of dozens of temporary restraining order petitions filed against officers.”<sup>884</sup>

Dempsey and Forst also note how police loyalty is not the only problematic character trait.

Loyalty is simply one of many other characteristics which researchers and managers have found to be socially desirable outside of policing but susceptible to becoming skewed by police. They write,

“Traits of the Police Culture/Subculture include Clannishness, Secrecy, Isolation from the public, Honor, Loyalty, and Individuality.”<sup>885</sup>

Having explained why loyalty is a problematic characteristic in police subcultures, and that it is something better managed than prized, Chief Kealoha’s total investment in organizational loyalty appears very problematic and most probably influential in identified problematic subcultural norms within HoPD rank-and-file conduct. Chief Kealoha’s emphasis on loyalty ahead of other traits such as integrity, honesty, ethics, etc., appears to have led HoPD officers into skewed perceptions of loyalty, ultimately becoming what is commonly known as a *blue wall of silence*. This blue wall of silence was noted as being present in HoPD in the Dowkin EEOC lawsuit, where it was noted: *Sgt. Dowkin and Officer Delgadillo decided that they had no choice but to “cross the blue line” and report the discrimination to the Chief of Police.*”<sup>886</sup> Dempsey and Forst also talk about the *blue line* stemming from misplaced loyalty noting,

“Studies of the police culture indicate that police officers protect one another from outsiders, often even refusing to aid police superiors or other law enforcement officials in investigating wrongdoing by other officers. This produces a protective barrier known as the blue wall of silence.”<sup>887</sup>

Once leadership allows skewed loyalty to develop as a subcultural norm that is given precedence over loyalty towards rule adherence and organizational mission goal resulting in a *blue wall of silence*, then the leader has in effect created an environment from which the rank-and-file can

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884 (Perez, 2016 (CTL), p. A8)

885 (Dempsey & Forst, 2016, p. 163)

886 (Bennet, Merit ESQ., 2016, p. 17)

887 Ibid (p. 164)

begin using utilitarian thinking to enter into '*Dirty Harry*' problematic behavior.<sup>888</sup> '*Dirty Harry*' behavior is what has been noted as having occurred within HoPD and brings my analysis full circle to the documented *culture of corruption*.<sup>889</sup>

According to Dempsey and Forst, some street-level officers become susceptible to using utilitarianism (the good of the many outweighs the good of the few, or the one) when attempting to create justice in unjust settings<sup>890</sup> rather than applying the age-old principle noting how it is better to allow ten guilty men to go free rather than sending one innocent man to prison.<sup>891</sup> *Dirty Harry* behavior is evident in HoPD's subculture given the evidence of Ofc. Morre's testimony wherein he admits to losing his ethical compass and beating a compliant suspect, all while he was "*attempting to do 'the right thing.'*"<sup>892</sup> *Dirty Harry* behavior appears frequently within HoPD officers' actions when assessing the conduct of elite units such as HoPD's Crime Reduction Unit (CRU). *Dirty Harry* thinking that is not identified and rooted out, but instead is defended as necessary to policing, usually leads to another common phenomenon within policing known as a *culture of corruption*.<sup>893</sup> Corrupt subcultures typically lead to the organization encountering an elevation in misconduct complaints and lawsuits resulting in tax payers having to divert critical fiscal resources to address these acts and away from paying for pre-budgeted expenditures. This is what happened to taxpayers when HoPD was required to pay Chief Kealoha \$250,000 in compensatory funds in order to have him retire.<sup>894</sup> The fact a culture of

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888 (Bennet, Merit ESQ., 2016, p. 167)

889 (Grube, 2013 (MC)) (Grube, 2013 (WPKD)) (Grube, 2015 (HELM))

890 Ibid (pp. 167- 168)

891 (Volokh, 1997, p. 174)

892 (Uyeno, 2016 (VMV))

893 (Grube, 2015 (HELM))

894 (Kawano, 2017 (KPO))

corruption has been found within HoPD subculture also begins to explain why 16% of all HoPD officers (on average) have been accused of misconduct under Chief Kealoha's management.<sup>895</sup>

Having connected how the rules and policies of HoPD, and subculture of the organization are both dependent on the organization's chain-of-command and leader to ensure ethical and legal behavior, I can now set analyze whether Chief Kealoha's performance as the HoPD manager was worthy of HPC re-investment as HoPD's leader in March of 2016, or was more of an attempt to discredit legislators, activists, and journalists who sought to bring public light to police mismanagement and corruption. Using the HPC criterion which evaluates the job performance of the HoPD Chief, I will assess whether Chief Kealoha's rating, which led to a contract extension for 5 years and renewed investment of \$173,424 taxpayers' dollars annually, appeared merited.<sup>896</sup>

#### **5.4 HPC's Job Analysis of Chief Kealoha: A Teachable Moment in Police Leadership**

Having previously outlined how 1) bureaucratic organizations subcultural norms are reflective of the organization's leader, 2) the chain-of-command is a formal tool of accountability through supervision of cultural behavior, 3) the chain-of-command is a reflection of the organization's leader's values, and 4) the chain-of-command managers often mimic leadership behavior, I have laid the foundation from which to analyze these four elements of Chief Kealoha's leadership: 1) whether Chief Kealoha was an effective leader, 2) whether the HPC job performance rating given him was political more than reflective of his ability to manage, 3) whether Chief Kealoha contributed to both gender and ability-based police violence, and 4) whether Chief Kealoha acted

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895 (Perez, 2016 (BO), p. A1)

896 (Eagle, 2016 (Salary))

in the best interest of the public as he served as the only systemic internal accountability mechanism overseeing HoPD. I feel it important to note, before entering into an analysis of whether the HPC's rating was reflective of Chief Kealoha's performance as head of HoPD, it is important to note Commissioner Ron Taketa was approached to participate and explain what criteria were used to assess Chief Kealoha during his 2015/2016 job evaluation; however, Commissioner Taketa was one of several Honolulu County officials who refused to meet and participate in data collection when invited. If ever these categories or analysis were to be disputed by Commissioners or agents for Chief Kealoha, I will point to all of their refusals to participate in University sanctioned data collection as the foundation for misinterpretation.

To better understand what lessons can be learned from the Kealoha era, I will use the HPC's job performance evaluations (**See Appendix G**) made public in March 2016 (evaluating FY 2015) together with the evidence appearing to answer the above listed questions surrounding his tenure as HoPD Chief. One reason I am using Chief Kealoha's leadership as a teachable moment is because he was given an 'exceeding expectations' (4.3 out of 5.0) scoring by the HPC when simultaneously; 1) 16% of HoPD officers under his leadership had received misconduct allegations,<sup>897</sup> 2) at least five managers in the chain-of-command were publicly alleged to be involved in criminal activity,<sup>898</sup> 3) the performance rating was bestowed upon him almost a year after media had begun reporting on a federal grand jury and FBI investigations into alleged abuses of power,<sup>899</sup> 4) it was the basis for Chief Kealoha's contract renewal for an additional five years which ultimately cost Honolulu tax payers \$250,000 in additional severance pay,<sup>900</sup> and 5)

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897 (Perez, 2016 (BO), p. A1)

898 Major Gordon Shiraishi, Captain Mark Ward, Lt. Jason Kawabata, Lt. Colin Wang, Lt. Dan Kwon,

899 (HNN Staff, 2016 (PCOL)) (Kawano, 2016 (KKT)) (Kawano, 2015 (FBI)) (Kawano, 2016 (Chief)) (Kawano, 2014 (CJ))

900 (Kawano, Police commission OKs controversial payout for embattled HPD chief, 2017 (KPO))

this evaluation was announced to the public during the 6’oclock edition of *Hawaii News Now* immediately following a seven minute long expose by investigative journalist Lynn Kawano outlining and provided court documents of Chief Kealoha’s alleged involvement in a large scale conspiracy involving civil rights abuses using his position as Chief of Police.<sup>901</sup> It therefore seems appropriate to use this performance evaluation given the conflicting appearance of surrounding facts which ‘*on its face*’ appear to cast doubt on whether the numeric scores given to his performance were true reflections of Kealoha’s leadership and managing of HoPD.

My analysis of Chief Kealoha continues by examining the two major areas which were analyzed above, and which are central to the HPC’s job performance review: management and leadership. Having described in detail these two concepts within modern policing bureaucracies, it appears a proper space from which to assess whether the HPC’s rating of Chief Kealoha was purely political, or whether it was a fair assessment of Chief Kealoha’s command of HoPD. Before focusing on these two categories (management and leadership,) it is important to note how the HPC’s performance review actually encompasses ten subcategories when rating a HoPD Chief. The first five (5) categories of the evaluation are rated on a numeric sliding scale (**See Appendix G**) where one (1) indicates the lowest rating and five (5) is the highest, while the remaining five (5) categories are assessed on a pass/fail (satisfactory/ unsatisfactory) rating. I will not be assessing three of the first five categories to include fiscal performance, relationship with the police commissioners, or community relations,<sup>902</sup> nor will I focus on four of the remaining five pass/fail categories. The March 9<sup>th</sup> (2016) performance is noted as evaluating Chief Kealoha for the months of January through December of 2015;<sup>903</sup> however, since incidents prior to 2015 were

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901 (Kawano, 2016 (Chief))

902 (Civil Beat Editorial Staff, 2016 (CPR))

903 Ibid

open for the HPC to use in their analysis to determine whether his contract should be extended, I will consider all of Chief Kealoha's first contract management decisions as evidentiary within my analysis.

Industry standards look upon *Leadership* as centering on *ethics, values, and integrity* expected of the organization. A major part of the HPC job analysis, and reason given for extension of Chief Kealoha's contract in 2016 for five additional years, was that the HPC considered him an effective leader. The HPC's leadership evaluation is broken into five subsections covering peer relations, ethics, communication skills, organizational moral, and program development. As previously outlined, leadership within policing is also understood as gauging the HoPD Chief's ability to hold individuals and managers accountable and act as the internal departmental accountability mechanism. To begin assessing Chief Kealoha's ability to lead, it should be remembered how many individuals were exposed or alleged to have committed illegal or criminal acts, and how it was Chief Kealoha who defended them or refused to dismiss them from their position of power and authority. While HoPD refused to disclose or cooperate with releasing how many officers were involved or alleged of misconduct during my study, I have amassed over 45 incidents, which involve 56 officers in acts which range from homicide to falsifying official documents which appear to show a pattern of weak leadership, and which the HPC appears to have overlooked when renewing his contract.<sup>904</sup> As part of my research, I have listed them with the officers involved, the date of the incident, the crime or charges made against

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904 (Daranciang, 2012 (Raquino)) (Daranciang, 2015) (Daysog, 2013 (AYK)) (Daysog, 2014) (Grube, 2015 (HELM)) (Grube, 2014 (PHM)) (Hawaii News Now Staff, 2010 (Kawabata)) (Hawaii News Now Webstaff, 2012 (Zoller, Bernal, P. Bugarin, C. Burgarin, Morris)) (Hawaii News Now Webstaff, 2012 (Chu)) (Kakesako, Former police officer pleads not guilty in identity theft case, 2011 (Furtado)) (Kawano, 2016 (Stone)) (Kawano, 2016 (Chief)) (Kawano, 2015 (Ahn)) (Kawano, 2015 (Tsun)) (Kawano, 2014 (Wong)) (Kawano, 2015 (KH)) (Kawano, 2015 (SIB)) (Kearns, 2014) (Kerr, 2015 (Staszyn)) (Kerr, 2015 (TMC)) (Khon2 Web Staff, 2014 (Kobayashi)) (Khon2 Web Staff, 2014 (Aoki)) (Manning, 2009 (Fujoka, Souza)) (Okita, 2010 (Yee)) (Star-Advertiser Staff, 2011 (Ward)) (Sugimoto, 2010 (Tarmoun)) (Sugimoto, 2010 (Rapozo)) (Sugimoto, 2010 (Valdez)) (Wang, 2015) (Web Staff Khon2, 2015 (FFS))

them, and the actions taken by either judicial officials or the HoPD Chief (**See Appendix A and B**). The reason I cannot focus on Chief Kealoha's responses to these incidents exclusively is due to HoPD refusing to disclose the disposition of these cases to the public, legislators, or the media. According to HoPD's official response to my inquiry, SHOPO union rules forbid disclosing the disposition of these personnel actions. It should be noted that many of the cases which read "pending" have been resolved, however no information was released to the public. This *non-disclosure* became standard practice for both Chief Kealoha and HoPD after they hired a public relations firm, and after demands were made by the police union to stop publicizing the outcome of criminal cases of HoPD officers. The media has been complicit and has stopped reporting on or following these officers' cases, thus proving police have been effective in stemming transparency and information which holds them accountable for their conduct.

All of the listed incidents (**See Appendix A and B**) were made public prior to the issuing of the HPC's performance evaluation, and are examples of officers under Chief Kealoha's leadership involved in misconduct. The list is therefore reflective of HoPD's interpretation of integrity under his leadership. Noteworthy within the forty-five (45) incidents were how almost half of them involved gender or ability-based police violence, and thus should have been known to the HPC Commissions when determining his overall numeric score in this category. These cases involve both managers and rank-and-file officers, and both violations of criminal law and policy. These incidents range in seriousness from driving under the influence (DUI) to rape.<sup>905</sup> I have noted on several occasions throughout my analysis how the totality of these officer- involved misconduct cases has been characterized in Honolulu as a *culture of corruption*.<sup>906</sup> Some of the

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905 See above citation list in footnote 904 (Ibid the list)

906 (Grube, 2015 (HELM))

most serious implications of problems with integrity come from the multiple cases where HoPD managers and rank-and-file were accused of covering-up, lying, or being otherwise deceitful in their official testimony to the public, the FBI, to judges, and to HoPD investigators. Although not all of these officers were found guilty (due to technicalities, disappearing plaintiffs, odd legal interpretations, and several other issues), when 45 incidents are assessed as indicative of his ability to lead, they form a picture which casts doubt on a rating where it is characterized as exceeding expectations.

As previously mentioned the HPC leadership rating also encompasses whether Chief Kealoha was considered an effective communicator by important police stake holders (i.e. lawmakers, activists, media, community groups, etc.). In other words, the HPC's rating is meant to assess how well the Chief was able to communicate the department's business and his individual agenda. To assess whether the chief was seen as a transparent effective communicator, I will use the Cachola case as an example to assess Chief Kealoha's abilities and proficiency in communication. More specifically, I will use the Chief's dealings with the Hawaii Women's Legislative Caucus and Hawaii State Legislative Inquiry into the Cachola investigation as two moments from which to assess the Chief's communication skills surrounding the Cachola incident.

In September 2014, following the high-profile media exposure given to the video of HoPD Sgt. Darren Cachola punching and kicking his girlfriend Deborah, and which I outlined in detail in the previous chapter, Chief Kealoha was asked by several legislative and legal bodies to account for what his chain-of-command supervisor had been seen on television doing. More specifically, these investigative inquiries asked Chief Kealoha to explain his decisions surrounding how and why he chose to handle the internal investigation as he did. Immediately following the video



release by the media, the Hawaii Women’s Legislative Caucus asked to meet with the Chief to allow him the opportunity to reassure them that he and his staff were seriously investigating the incident. Specifically, they sought answers on what his plan of action was. However, the handling and communication surrounding the meeting was so problematic that it eventually became a separate but connected incident adding to public outrage directed towards police as a result of the video.<sup>907</sup> The reason public backlash appears to have occurred was because Chief Kealoha appeared, not only to be defending Sgt. Cachola’s violent attack, but also to be outraged that ‘these women’ demanded answers accounting for *his* officer’s conduct. Whether this was his intent or not, the manner in which he communicated left the community outraged.

Following this communication misstep, Chief Kealoha testified in front of two legislative commissions (County and State) wherein he appeared ill-informed, unaware, and misdirected when discussing 1) why other managers he appointed attempted to cover-up the incident by not documenting anything,<sup>908</sup> 2) what he was doing to ensure that the victim (Deborah) was not being exposed to the same police-to-victim intimidation tactics as described by Jonelle Tsunezumi (wife of Ofc. Roddy Tsunezumi),<sup>909</sup> 3) how he was addressing the poorly written policies surrounding domestic violence that he and his staff allowed to be maintained and which clearly needed updating,<sup>910</sup> 4) why his training plans were focused on first shooter priorities rather than community driven concerns over increased police violence,<sup>911</sup> and 5) why his zero-tolerance domestic violence policy appeared to consistently issue either no punitive action or a one (1) day punitive sentence.<sup>912</sup>

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907 (Hawai’i Senate Majority, 2014) (Uyeno, 2014 (CM))

908 (Cachola Commission - Videotestimony, 2014)

909 (Perez, 2016 (CTL), pp. A8-9)

910 (Cachola Commission - Videotestimony, 2014)

911 (Kealoha, 2014 (CCH))

912 (Kawano, 2014 (CGH))

If Chief Kealoha had indeed been effective in communicating how Cachola's conduct was not in line with his personal values or those of the organization, then residents and legislators would not have perceived him as defending Sgt. Cachola which eventually led to the public associating Kealoha with the evidence presented against Cachola.<sup>913</sup> The Chief's communication appears so ineffective that all of his public statements stopped soon after the Cachola hearings, and statements which were released in his name after 2015 were influenced by the previously mentioned \$125,000 contracted PR firm.<sup>914</sup> Cachola appears to also be a moment highlighting the Chief's ineffectiveness in gaining public trust surrounding his credibility as to his investment in establishing a zero-tolerance domestic violence policy.<sup>915</sup> Chief Kealoha's inability to communicate was also commented on when he failed to make public statements about several other high profile misconduct issues surrounding rank-and-file officer's integrity and conduct. This includes the Dawkins \$6 million EEOC lawsuit in February 2016,<sup>916</sup> the homicide of Sheldon Haleck in Dec 2015,<sup>917</sup> and an FBI probe into a stolen mailbox at his residence from 2014 - 2016.<sup>918</sup> By December 2016 even the Honolulu Mayor had noted how Chief Kealoha's refusal to communicate was problematic, and asked that he be more communicative with the public and media.<sup>919</sup> Clearly communication is not one of Chief Kealoha's strong points, which makes the 4.0 leadership rating given to him by the HPC seem more odd and not in line with the evidence.

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913 (Kawano, 2014 (CGH))

914 (Cataluna, 2016)

915 (Kawano, 2015 (Ahn)) (Khon2 Web Staff, 2014 (Kobayashi))

916 (Grube, 2016 (Dowkins))

917 (Grube, 2015 (SMI)) (KITV4 Webstaff, 2015 (Haleck))

918 (Grube, 2014 (MM))

919 (Grube, 2015 (CSO))

The HPC's leadership rating also centers on the chief's effect on *organizational morale*. Having worked as a law enforcement and military bureaucrat engaged directly in policing duties for over 17 years, I am in a unique position to understand and assess how organizational morale has a special function in large law enforcement organizations such as HoPD. Arguably, I don't know what the rank-and-file at HoPD felt behind *the blue wall*, however I can (by experience) argue that hearing fellow officers were being arrested, suspended, and fired for misconduct must have had a devastating effect on departmental morale, as they had an effect on me when I worked as a police officer. I can attest to the fact I personally felt outrage when officers brought discredit to the profession by violating law. Being categorized as an honest cop was important to me, and thus I often felt shame when others' conduct reflected poorly on my individual efforts. When the actions of others placed unwarranted scrutiny onto my efforts, frustration and mistrust in my own agency was often the resulting emotions I felt. This is most likely why in 2016 HPC Commissioner Loretta Sheehan ended up pointing out that HoPD rank-and-file morale had been 'crumbling' under Chief Kealoha's management, stating;

““Circumstantially, we can see there's a problem,” Sheehan said. “If I see that morale is crumbling, if I see that there is a persistent and consistent pattern of misconduct by police officers, I take that really seriously, and the buck has to stop somewhere.”<sup>920</sup>

However, after the FBI aided in removing Chief Kealoha, SHOPO President Ma'afala and the Chief's Attorney noted how morale was negatively affected by Chief Kealoha being targeted by the FBI which began far before his reappointment as HoPD Chief.<sup>921</sup> Whether morale was declining when the Commission rated the Chief in 2015 can only be speculated on; however, based on my experiences as a former police officer, together with HPC Commissioner Sheehan's observations in 2016 and statements by SHOPO and the Chief's attorney, it appears departmental

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920 (Mangieri, 2016 (PCHS))

921 (Kawano, 2014 (CJ))

morale was in decline following the Cachola incident in 2014 and did not recover until after Chief Kealoha's resignation.

Finally, one last category which the HPC rates when factoring the Chief's leadership ability is *program development*. This category appears to assess what types of programs were instituted by the HoPD Chief, and how well they functioned. In order to rate whether Chief Kealoha's programs were effective, I will use the Honolulu crime rates as an assessment tool. Crime rates are determined by the Uniform Crime Reporting (UCR) statistics which, as I previously outlined, were stopped by Chief Kealoha in 2010. Although nationwide UCR reporting is voluntary, crime reporting by major cities is considered both customary and important in aiding lawmakers, police executives and policy analysts in helping to formulate public safety policy. Additionally, previously outlined was the problematic nature of measuring Honolulu crime statistics due to the Chief's lack of reporting crime statistics beginning in 2010, just prior to the APEC summit.<sup>922</sup> By the time the March 2016 evaluation was made, Chief Kealoha and his managers had not reported Uniformed Crime Report (UCR) statistics for 3.5 years,<sup>923</sup> but were continuously quoted as saying how crime in Honolulu was declining and how Honolulu was one of the safest cities in America. This fact was even a campaign slogan of Mayor Caldwell in the 2016 elections, a Trump style statement based on false "facts".<sup>924</sup> When crime statistics were finally turned over to the FBI late in 2015, they indicated a rise in the overall crime rate, which had been rising for several years. According to the FBI's report,

"The FBI reports that Hawaii saw a rise in aggravated assaults and property crimes, according to crime statistics from 2015. Compared to 2014, robbery, assault, property crime and theft are up. Aggravated assault went up 31 percent

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922 (Star Advertiser, 2015)

923 Ibid

924 (HNN Staff, 2016 (SHOPO-Caldwell))

and property crime went up 18 percent. Burglary, however, went down 12 percent and crimes involving murder were also down.”<sup>925</sup>

The fact Chief Kealoha’s leadership surrounding program development was evaluated as ‘exceeding expectations’ when the evidence proves his programs were ineffective at stemming a rise in crime is troubling; however, because Chief Kealoha withheld the statistical data necessary to make an assessment, it would be unfair to blame the HPC and Mayor entirely for their misconception. The fact that HPC did not demand crime statistics over a three-year period, however, is a different matter and is troubling on its own. The fact crime rates were kept secret is made even more troubling when it was revealed how when crime statistics were finally revealed in 2015, they indicated violent crime was also increasing. This would seem to denote a serious failure in program effectiveness surrounding public safety overall. According to the FBI’s UCR report,

“During the first six months of 2015, there were 12 murders, 438 robberies, and nearly 14,000 property crimes on Oahu.”<sup>926</sup>

Had there not been a state legislative bill begun in 2015, and passed in 2016 which mandated all county police agencies in Hawaii turn over annual UCR statistics to the attorney general, it is unclear as to whether or not Chief Kealoha would have continued to resist turning over this critical data. This category (program development) has additional importance because the Honolulu crime rate, and the characterization of Honolulu being one of America’s safest cities, was pointed to repeatedly as both a point of justification for extending Chief Kealoha’s contract, and as evidence of his stellar managing skills.<sup>927</sup> When accurate statistical data was finally made available, it became clear how there was ample reason to question whether the \$258,991,972.00 given to the Chief for crime fighting during FY2015 was money well spent. The UCR data

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925 (Cerball, 2016 (CRU))

926 (Vorsino, 2016 (CRU2))

927 (Civil Beat Editorial Staff, 2016 (CPR))

would have also allowed law-makers, journalists, and activists to question whether the programs being designed and funded by Chief Kealoha were truly effective and whether they contributed (in any way) to elevated levels of police-based violence. Clearly the HPC was not interested in obtaining these statistics, or was/is unaware of their importance.

Moving on from the *Leadership* category, the next category I analyze which was rated by the HPC assessed the Chief's *managerial ability*. The HPC again places a great deal of importance on this function and has broken down the rating into four subcategories, including organizational structure, delegation, staffing, and training. When assessing the HPC's rating as to organizational structure, the category surrounds the analysis of organizational efficiency using two broad categories of evidence. The first category from which to analyze the department's efficiency are crime statistics, which I have already analyzed and found to be problematic when assessing the Chief's programs. The second method of assessment used by the HPC appear to use the organization's specialized teams as a gauge, and is best analyzed using rank-and-file units or departments who work directly with, or closely to, Chief Kealoha. By analyzing these specialized departments' performance and conduct a foundation is established from which to assess the efficiency of the organization and thus the managerial ability of the Chief. Specialized police units who report directly to, or receive orders directly from, Chief Kealoha include the CIU (Crime Intelligence Unit) and the CRU (Crime Reduction Unit). These two units (coincidentally) were both overseen and directed by him during the theft of his mailbox which will be outlined and assessed in a later section of this chapter. These units are given extra discretionary powers surrounding their ability to act due to their close interconnectivity with Chief Kealoha.

So that I can gauge the HPC's score in this category, I will assess the Crime Reduction Unit (CRU) conduct from 2010 – 2015 as a measure of the Chief's ability to manage his specialized units. During the five-year period when the CRU was under the supervision of Chief Kealoha, numerous problems involving allegations of civil rights abuse arose which were tied directly to officers assigned to the CRU.<sup>928</sup> According to Los Angeles retired police captain Greg Meyer,

"Teams like the CRU units tend to be highly specialized officers who are called on to the arrest some of the most dangerous criminals."<sup>929</sup>

Given how CRU units in other departments are normally highly trained individuals whose trust has been established by a long history of solid decision making and ethical conduct, this is why Chief Kealoha's appointments appear problematic. Over the five years of being managed by Chief Kealoha, CRU's officers had built a public reputation as brutal and violent. Several media sources noted this problem, writing,

"There's been a history of problems with the CRU units.... Johnny Helm who was mistaken for a home invasion suspect while hiking near Wihelmina Rise in 2012 [is one example]. Helm was then allegedly beaten by several CRU members and when they realized they had the wrong man, the CRU members dumped Helm off in Palolo instead of taking him to a hospital."<sup>930</sup>

The facts surrounding the CRU's handling of the Helm's incident led the Honolulu Police Commission recommending the CRU officers involved be fired and charged criminally with police brutality. Despite this finding, Chief Kealoha dismissed their recommendation, stating he felt the officers followed all departmental procedures and (in his opinion) were not guilty of any policy violation or crime, ultimately leading to a lawsuit against the County and Department by Helms.

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928 (Daysog, 2014 (EX))

929 Ibid

930 Ibid

In addition to the Helm's lawsuit which cost taxpayers \$167,500,<sup>931</sup> the CRU was also involved with; 1) Ofc. Morre's civil rights abuse case,<sup>932</sup> 2) the Jonah Kaahu lawsuit,<sup>933</sup> and 3) the questionable arrest of Gerald Puana for theft of the Chief's mailbox (outlined in the next section of this chapter).<sup>934</sup> The CRU was also involved in the fatal shooting of several non-violent suspects to include 4) auto theft suspect James Pickard Jr., and 5) DUI suspect Richard Nelson,<sup>935</sup> both of whom were killed when attempting to flee.<sup>936</sup> This plain clothed secret unit was also reported to have attempted to pull over vehicles for routine traffic offenses resulting in public confusion, unnecessary police chases, and unnecessary jeopardizing of public safety.<sup>937</sup> Incidents of CRU officers approaching suspicious vehicles in apartment complexes, only to have those drivers mistake police for bandits, was also indicative of poor supervision and training involving plain-clothes police operations.

When asked what corrective action the Chief and his managers would take to ensure accountability in these ultra-secretive specialized units' conduct, and what management actions he was taking to deal with their mounting problems with violent behavior, Chief Kealoha responded that all police officers would have to re-read department policies and were to take an hour long re-training class where the punishment included a dress code where no sandals were allowed.<sup>938</sup> When journalists sought to determine what special training CRU officers receive prior to being vested with such discretionary latitude, Chief Kealoha stated that CRU officers were mainly senior patrolmen who have been on the force for several years, but that no special or

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931 (Grube, 2015 (PCT))

932 (Daranciang, 2015)

933 (Associated Press, 2014 (Kaahu))

934 (Kerr, 2015 (EP))

935 (Kakesako, 2014 (Picard Jr.))

936 (Yoro, 2014 (Pickard))

937 (Khon2 Web Staff, 2014 (Chase))

938 (Daysog, 2014 (EX))



formal training was provided them prior to allowing them to perform as plain-clothed CRU officers.<sup>939</sup>

The HPC also assesses, as part of the management rating, the Chief's ability to delegate tasks. Delegation is a managerial necessity wherein leaders authorize others to act in their absence in an effort to disseminate supervisory powers, and whose importance I outlined earlier. I previously mentioned that delegation was more than passing the buck, but instead involves the idea of empowering and overseeing entrusted individuals in an effort to ensure their success. This appears to be what the HPC intended to evaluate in this section. Given delegation means overseeing manager's conduct, then the EEOC lawsuit brought against Chief Kealoha and his managers by HoPD rank-and-file officers appear to directly reflect on the ability of Chief Kealoha's to properly delegate and gauge others before bestowing his authority on them. Although the actual disclosure of the facts involved in the Dowkin EEOC lawsuit have never clearly been outlined for Honolulu residents, the Honolulu Police Commission's was informed of the internal investigation and complaints against the command staff by Hawaii State Senator Will Espero well before the 2016 evaluation. Senator Espero provided the Commission with court documents surrounding the case in January 2016 prior to the HPC completing their evaluation in March.<sup>940</sup>

The Dowkin EEOC lawsuit points to delegation problems as evident when assessing who was in a position of management and supervision and what actions they took once Dowkin made Chief Kealoha aware of the issue. Also problematic was how the chain-of-command was directly involved with engaging in racially prejudicial conduct and retaliation against rank-and-file

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939 (Kawano, 2014 (CRU))

940 (Civil Beat Editorial Staff, 2016 (CPR)) (Grube, 2016 (Dowkins))

whistle-blowers. The fact the HoPD chain-of-command's handling of the case led directly to the permanent disability of a HoPD officer, and a scheme to conceal and white-wash the entire incident from investigators once Dowkin and the other plaintiffs revealed the problem to Chief Kealoha would appear to provide further evidence of poor decisions by Chief Kealoha involving delegation of authority.<sup>941</sup>

To fully understand why the Dowkin lawsuit casts doubt on Chief Kealoha's ability to delegate authority, a full understanding of the case must be discussed. The Dowkin lawsuit begins in 2004 with allegations of racial prejudice by HoPD managers and supervisors against Sgt. Dowkin (a black officer). Chief Kealoha's involvement with the case doesn't begin until 2009 when Chief Kealoha was briefed on, and took over, the investigation from Chief Boisse Correa. In 2009 Correa had already mishandled the investigation by allowing it to proceed for 3 years and not holding supervisors accountable. According to the plaintiffs, the problem was that Chief Kealoha and his chain-of-command (after being notified) "did nothing to protect the safety of the plaintiffs."<sup>942</sup> Once the plaintiffs had blown the whistle on managerial bad acts, and Chief Kealoha took charge of the investigation, it was Chief Kealoha who ordered a named defendant (Sgt. Tanaka) to supervise Officer Huihui (a whistle-blower). Kealoha knew of the danger to Huihui as the lawsuit had outlined as much, detailing that Kealoha had evidence that Tanaka was a suspected violator before ordering Huihui to remain under his command.<sup>943</sup> It was Sgt. Tanaka's actions which led to Huihui (who had verified Dowkin's allegations of being racially targeted by the chain-of-command) to be retaliated against. Officer Huihui ended up having her

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941 (Grube, 2016 (Dowkins))

942 (Bennet, Merit ESQ., 2016, p. 9)

943 Ibid (p. 9)

back broken by a suspect when Tanaka ordered her into a dangerous situation and then purposefully ‘slowed’ her back-up.<sup>944</sup> According to court documents,

“The Defendants’ misconduct is not only intentional, it is criminal. The tacit conspiracy to knowingly expose the Plaintiffs to a known risk of serious bodily harm constitutes criminal conspiracy to commit, and the actual commission of, the crime of reckless endangerment in violations of Hawai’i Revised Statutes.”<sup>945</sup>

The fact that the media and the HPC never publicly questioned Chief Kealoha on the Dowkin’s lawsuit is problematic in itself; however, the fact that the HPC rated Chief Kealoha’s delegation performance as exceeding expectations seems even more troubling given they had this information before scoring. This leads to another rated section of the HPC job evaluation within the management section known as staffing.

Staffing would appear to evaluate the Chief’s chain-of-command appointments, and those made to specialized units (e.g. CRU, CIU, etc.) Because I have already evaluated the problems with the CRU, and will discuss the Chief’s CIU (Crime Intelligence Unit) in a later section, I will limit my focus in this section to staffing issues involving the chain-of-command appointments made by Chief Kealoha. Although the decisions of Chief Kealoha to appoint Major Borges (a convicted domestic batterer who was convicted of threatening his wife with a gun in 1994 which required Governor Cayetano to pardon him in order to supersede Federal law<sup>946</sup>) did not occur until shortly after the HPC evaluation in March 2016, there were several other managerial staffing issues that demonstrate who Chief Kealoha entrusted as his managerial staff. Some examples of questionable staffing decisions include: 1) Captain Mark Ward who in April 2010 who was alleged to have assaulted a young woman,<sup>947</sup> 2) Lieutenant Jason Kawabata who in

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944 (Bennet, Merit ESQ., 2016, pp. 10-11)

945 Ibid (p. 11)

946 (Civil Beat Editorial Board, 2016 (NNL))

947 (Star-Advertiser Staff, 2011 (Ward))

September 2010 was alleged to have beaten his wife,<sup>948</sup> 3) Sergeant Darren Cachola in October of 2014 who was seen on video punching and kicking his girlfriend,<sup>949</sup> 4) Major Carton Nishimura from 2005-2010 whose crimes included conspiracy, drug possession, and lying to federal investigators,<sup>950</sup> 5) SWAT Lieutenant Colin Wong who in March 2013 who was arrested for DUI,<sup>951</sup> and 6) Sergeant, Larry Oliva who was captured on video in a rage trying to start a fight with residents in 2013.<sup>952</sup>

During the Cachola investigation, when asked by Hawaii State Senator Laura Thielen why written reports were not generated by Sgt. Mike Kahikina or other unnamed HoPD supervisors who responded to the Cachola scene, and why a domestic violence criminal investigation was not conducted by Sgt Kahikina who instead drove Sgt Cachola home, Chief Kealoha and his command staff defended Sgt Kahikina actions, stating that because he was not dispatched specifically to a domestic violence incident, his legal obligations to document the incident was thus not covered by HoPD policy.<sup>953</sup> Any way this situation is examined, this doesn't sound like sound judgment worthy of being entrusted as a chain-of-command supervisor.

During the Dowkin case the alleged violations of Lt. Kwon and Sgt. Fernandez cast doubt on the Chief's staffing as it was they who were responsible for ordering HoPD officers to not back-up Dowkin and Delgadillo [a Hispanic officer] during multiple DUI investigations while simultaneously using racial slurs to degrade booth officers. Although Chief Kealoha was not responsible for appointing Kwon or Fernandez, or mishandling the initial complaint investigation

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948 (Hawaii News Now Staff, 2010 (Kawabata))

949 (Kerr, 2014 (DCIT))

950 (Daysog, 2013 (AYK))

951 (Kawano, 2014 (Wong))

952 (Kerr, 2013 (OOC))

953 (Cachola Commission - Videotestimony, 2014)

(which I previously stated had a five (5) business day deadline for resolution and dragged on for over 3 years under the previous Chief), once the complaint reached Chief Kealoha, he took no corrective action and asked his chain-of-command to make it ‘go away’, thus making the Chief complicit in the bad acts and engaged in an apparent cover-up. According to the court documents, Chief Kealoha was reported to “do nothing to resolve the problem,”<sup>954</sup> in fact they note how he exacerbated the situation by further assigning staff members he trusted to ‘handle it’. The court documents note how it was Chief Kealoha’s staffing decisions that ended up being the most problematic;

“...even though several command officers (and the defense’s police chief expert witness) admitted later when they were deposed that the contesting parties should have been, at the very least, immediately separated. Even more incredibly, after the lawsuit was filed against the Department and a number of complicit and offending officers in the Plaintiffs’ chain of command, Officer Huihui was assigned under the direct supervision of one of her perpetrators, Defendant Sgt. Ralston Tanaka, on night patrol. This decision, made by HPD command officers with the knowledge of corporation counsel during the pendency of a federal lawsuit, was patently reckless, because, sure enough, in October of 2010, Sgt. Tanaka permitted Officer Huihui to enter the front door of a bar ALONE, in which a known felon was present and thought to be armed and potentially dangerous, WITHOUT ordering her to receive back-up cover, while Tanaka took his two other subordinate male officers on the scene around to the back of the bar, totally in violation of the HPD policy and procedure to provide officers with mandatory back-up cover. This time the retaliation against Officer Huihui, tacitly condoned by the Department and undertaken by this particular Defendant (Sgt. Tanaka), finally achieved its retaliatory goal - Officer Huihui was attacked by the suspect when she entered the bar without cover, causing her to seriously and permanently injure her back and ultimately resulting in her disability discharge and the premature ending of her chosen professional career.”<sup>955</sup>

Clearly there are problems with how Chief Kealoha is staffing his chain-of-command positions, given how they handled the incidents with Sgt. Dowkin, Officer Delgadillo, Officer Huihui, and Sgt. Cachola. Additionally, this doubt surrounding the Chief’s managerial performance centers on how six of his chain-of-command staff members were either caught on video, or alleged to have violated law or department policy when being charged with setting the example. These incidents also don’t include incidents involving chain-of-command staff after 2016 which include the HoPD academy cheating scandal,<sup>956</sup> the rape kit destruction cover-up,<sup>957</sup> the DUI crash of Sergeant Dennis Stone (who as a corporal beat up his daughter’s boyfriend in 2013 but

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954 (Bennet, Merit ESQ., 2016, pp. 7-8)

955 Ibid (pp. 10-11)

956 (Kawano, 2016 (TAM))

957 (Kawano, 2016 (RKL))

was promoted by Kealoha,)<sup>958</sup> or the civil-rights conspiracy involving Mr. Puana and the Chief's Mailbox.<sup>959</sup>

The final component the HPC used in assessing the Chief's managerial performance surrounds training. The HPC's *training* category appears to involve both the in-service training given to HoPD rank-and-file on an annual basis, and the academy training given to new police recruits. Unlike most progressive states, HoPD's police academy is not overseen by an independent, civilian-led, state-level standards board (an issue that will be outlined in the next chapter), instead leaving all training standards and oversight to the HoPD Chief and his chain-of-command. As I previously noted, the news that a widespread cheating scandal existed at the HoPD police academy became public in February 2016.<sup>960</sup> If the chain-of-command and Chief Kealoha were not aware of this issue until the media broke the story, then it too is indicative of leadership and managerial problems the HPC could have included when they evaluated Chief Kealoha in this category in March 2016. This is especially problematic when considering it was a chain-of-command staff member accused of providing answers to cadets while engaging in an unauthorized sexual affair with her.<sup>961</sup> As I publicly stated in news reports when the scandal was exposed, one of the most egregious crimes in academia is cheating or plagiarism.<sup>962</sup> To have police officers, whose powers include the ability to summarily execute individuals based on authority given to them by their jurisdictions, cheat their way through the academy does not demonstrate or command community trust. To have chain-of-command officers engaged in this cheating and sexual misconduct should have been questioned by the HPC.

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958 (Kawano, 2016 (Stone))

959 (Grube, 2016 (Conspiracy))

960 (Kerr, 2016 (TAM))

961 (Kawano, 2016 (TAM))

962 Ibid

In addition to the HoPD academy training appearing problematic, police reform advocates, activists, and lawmakers have been pointing to Chief Kealoha's inadequate training plans surrounding domestic violence and mental health since 2014 when it was revealed how officers receive 1 hour of training on domestic violence annually,<sup>963</sup> and no specific training in handling mentally ill residents other than the laws surrounding how to legally incarcerate them for 72 hours. In 2016 Hawaii State Legislators attempted to introduce five bills aimed at increasing both domestic violence and mental illness training; however, Chief Kealoha (through his staff) advocated and testified against all of them, ultimately leading to the bills' defeat. When analyzing Chief Kealoha's training priorities, he has constantly been vocal in his advocacy for 'first-shooter' training after 2009. In 2016 state law-makers attempted to pass two bills designed to create a standards board which would have removed training from HoPD's realm of influence. Again, SHOPO and Chief Kealoha were on the forefront advocating against these bills, stating that state funds that are earmarked for police training needed to remain at the discretion of the HoPD Chief.<sup>964</sup> Given the HoPD academy was caught allowing cadets to cheat their way to success, and the Chief was constantly advocating against training improvements, perhaps allowing the Chief and his managers to determine what is appropriate by scoring him with a 4.3 'exceeding expectations' for his managerial ability was not appropriate.

The final category of Chief Kealoha's 2016 HPC job performance which I wish to assess is behavioral integrity, in which he received a 'satisfactory' rating. Behavior integrity is the HPC category which I have reserved to assess Chief Kealoha's actions which reflect directly on his personal integrity. Integrity is defined as,

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963 (Kawano, 2014 (CGH))

964 (Kerr, 2016 (GSW))

“1) the quality of being honest and having strong moral principles; moral uprightness. 2) the state of being whole and undivided.”<sup>965</sup>

Being honest is best defined as not telling partial or half-truths, or using language to be deceptive. It means to speak the truth of reality and not the truth of hope. Also noted in the definition is the idea of integrity containing moral principles. Morals mean,

“1) concerned with the principles of right and wrong behavior and the goodness or badness of human character. 2) holding or manifesting high principles for proper conduct.”<sup>966</sup>

As I stated when discussing leadership, concepts of right and wrong may have a place in political debate, but when it involves police powers and individual conduct of those wearing a badge, right and wrong behavior is clearly prescribed. I also outlined how rules and policies guide bureaucratic behavior. All behavior violating laws, rules, policies, and the trust placed into individuals by the residents they serve, is considered wrong or bad behavior. Behavior that is deceptive, deviant, dishonest, and insincere is also considered wrong when police ethics is what is being gauged. This is the baseline from which I build my analysis of whether Chief Kealoha’s integrity was worthy of a ‘satisfactory’ rating.

As mentioned, Chief Kealoha was forced to settle a \$6 million dollar EEOC lawsuit alleging his behavior included ordering an officer to work under a manager she blew the whistle on, ultimately leading to her demise as a police officer with a broken back.<sup>967</sup> Also previously discussed was how Chief Kealoha 1) victim-blamed Sgt. Cachola’s girlfriend Deborah,<sup>968</sup> 2) failed to find any fault in the conduct of Sgt. Cachola sparing, fighting, grappling, playing or otherwise causing a public disturbance at Kuni’s Restaurant as problematic,<sup>969</sup> 3) denied what

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965 (Google, 2017)

966 Ibid

967 (Bennet, Merit ESQ., 2016)

968 (Khon2 Web Staff, 2014 (CVB))

969 (Kawano, 2014 (CGH))



was evident as domestic violence to millions of Americans, instead saying it was ‘sparing’,<sup>970</sup> 4) failed to acknowledge his responsibility in maintaining and overseeing an adequate departmental domestic violence policy,<sup>971</sup> 5) concealed the return of Sgt. Cachola to the police force,<sup>972</sup> 6) failed to defend any of his punitive administrative action against SHOPO appeals,<sup>973</sup> and 7) decided to fight legislative bills creating more domestic violence training following the Cachola case despite him promising to increase training.<sup>974</sup>

I also discussed how Chief Kealoha caused a mistrial by misspeaking, misconstruing, or lying about the criminal history of his wife’s uncle during a federal criminal trial involving postal theft<sup>975</sup>, and how he defended the actions of eight officers who beat and falsely arrested two innocent residents against HPC recommendations to discipline the officers during the Helm’s case.<sup>976</sup> Despite all of these issues which could be discussed within an analysis of Chief Kealoha’s integrity, what I have held for discussion until this section is why the ethics commission and FBI were investigating Chief Kealoha beginning in 2015, and why he and several command staff officers chose to retire during 2015/2016. This analysis would also seem to indicate why HoPD officers engage in conduct involving lying, misusing power, and other crimes which perceive state laws and policies as suggestive rather than absolute given the conduct of the Chief. Remembering how leaders ‘lead by example,’ and dictate the subculture of an organization, this brings my analysis of how accurate the HPC job performance rating of

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970 (Kearns, 2014)

971 (Caron, 2014 (Cachola))

972 Sgt. Cachola works in the basement of HoPD headquarters building according to Lynn Kawano, Hawaii News Now as of January 2017.

973 (Kerr, 2015 (PWD)) SHOPO was successful in their defense and appeal.

974 (Simmons, 2015 (NDVT))

975 (Kawano, 2014 (Mistrial))

976 (Grube, 2015 (PCT))

Chief Kealoha's integrity was by comparing their rating against the evidence weighed by a federal grand jury and federal prosecutors.

### **5.5 When Leadership and Management Turn into Racketeering According to the F.B.I.**

Before analyzing why the Department of Justice was/is charging Chief Kealoha with public racketeering, I again wish to reiterate how this is a teachable moment regarding the public's legitimate expectations of police officials' behavior rather than an attack on anyone's character. Again, this section is mainly to present whether the HPC rated Chief Kealoha fairly given the evidence made public surrounding his integrity. Although at times this may seem personal or vindictive, I would caveat this section by stating how even I defended Chief Kealoha's several times prior to being exposed to the evidence collected during the FBI's investigation into his actions surrounding the alleged theft of his mailbox. Unfortunately, it is important to bring a face to this important lesson how unchecked police power can go awry, and become the foundation for public racketeering. To clarify why this lesson is as much an indictment of the criminal justice system in Honolulu County as it is evidence of Chief Kealoha's integrity, it must be clarified that Chief Kealoha is (was) married to Kathrine Kealoha (Deputy Chief Prosecutor of Honolulu) which in most jurisdictions in the United States would be a conflict of interest. The two (Police Chief and Deputy Chief Prosecutor) were considered by island residents as "*a power couple*"<sup>977</sup> holding two of the highest positions in the islands' criminal justice system. Prior to becoming chief, Louis Kealoha was a HoPD captain assigned to the juvenile division.<sup>978</sup> He was promoted without having ever served as an assistant chief, major, or other senior chain-of-command position during an apparent political shake-up involving Chief Bossie Correa just prior

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977 (Kawano, 2015 (FBI))

978 (Kerr, 2009 (KEC))

to the APEC summit.<sup>979</sup> Upon his promotion to chief in 2009 his wife Katherine threw a \$23,976 party with funds borrowed from a bank account that she shared with her grandmother (Florence Puana) who resided with her son (Katherine's uncle) Gerard Puana. This is where the racketeering issue, known as the Chief's mailbox saga, begins. Civil beat investigative reporter Nick Grube attempts to summarize the financial tensions between Katherine and her family writing;

"According to the lawsuit, Puana gave Kealoha \$40,000 that he believed would be used as part of an "investment hui" that she would manage on his behalf, and allow him to make periodic withdrawals. The records state he gave her an additional \$30,000 to keep inside a safe at her house. Katherine Kealoha also helped obtain a reverse mortgage on her grandmother's house so they could use the funds to buy her uncle a condo. Court records say the reverse mortgage was for \$534,594.01, about \$390,000 of which went toward purchasing the condominium unit. Another \$20,000 went toward other fees and charges related to the mortgage. But it's what happened to the rest of that money — about \$150,000 — as well as the \$70,000 Gerard Puana says he gave to Katherine Kealoha that is central to the lawsuit. The Puanas say Kealoha kept the money for herself, taking out cash or spending it on food, travel and entertainment. She also didn't pay down any of the mortgage, the lawsuit says, causing the balance to balloon to more than \$650,000. According to the Puanas' attorney, Gerald Kurashima, Florence Puana had to sell her house to pay off the mortgage. She now lives with one of her daughters. "Florence's primary concern was the amount of the reverse mortgage," Kurashima said. "She believed she had to sell the property because of the size of the reverse mortgage." In court records, Kurashima notes that the Puanas placed their trust in Katherine because she was highly educated and an attorney. Gerard Puana had a high school education and Florence only finished the eighth grade."<sup>980</sup>

Once Katherine was appointed as a Deputy Prosecutor in 2011 by her ex-employer Keith Kaneshiro, who had just regained his position as Honolulu Prosecutor after a long hiatus, even more funds went missing from the Puana account. Finally, in 2012 Florence closed the account and sent a letter to Katherine asking her to repay *borrowed* funds.<sup>981</sup> Katherine sent an angry letter back which, according to investigative journalist Lynn Kawano, read,

"Kealoha writes, "I HAVE NEVER, WILL NEVER OR WOULD NEVER BORROW, TAKE OR EVEN REQUEST to BORROW ANY MONEY FROM FLORENCE PUANA!" She continues, "I WILL seek the highest form of legal retribution against ANYONE and EVERYONE who has written or verbally uttered those LIES about me! They will rue the day that they decided to state these TWISTED LIES!"<sup>982</sup>

With no other options, Florence filed a lawsuit seeking repayment of the funds. By the time the civil case was filed, Katherine Kealoha's niece (Maile) and her husband Minh-Hung "Bobby"

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979 (Kerr, 2009 (KEC))

980 (Grube, 2014 (MM))

981 (Kawano, 2016 (Chief))

982 Ibid

Nguyen (a HoPD officer and video expert assigned to the Criminal Investigations Unit (CIU) which directly reported to Chief Kealoha) were living with Chief Kealoha, Katherine, and their daughter together at the Chief's residence. According to HoPD Deputy Chief Marie McCauley, Chief Kealoha came to her prior to June 19<sup>th</sup> and told her he was being targeted by vandals, but hadn't reported any of the incidents officially or filed any official documentation.<sup>983</sup> According to Chief Kealoha, McCauley ordered the CIU to investigate and find out what was happening with odd incidents involving the Chief.<sup>984</sup> As previously alluded to, the CIU is a specialized unit which take their orders directly from either Chief Kealoha or his Deputy Chief McCauley,<sup>985</sup> but receive their funding from federal counterterror funding which specify the unit should be used in counterterror intelligence operations. According to reports,

"Before she left for Europe, she said, the chief had told her that someone had been yelling profanities at the house and had shot out the windows of his front door with a pellet gun. McCauley told DeCaires she was surprised that the chief hadn't reported any of the incidents, especially considering the safety of his wife and daughter. "I told him he needs to document this so we can find out who's doing it and take action," the deputy chief told DeCaires. "I thought it was an officer. That's what I thought. That's what I continued to think up until when I returned from vacation." McCauley said she believed a drunk cop or some other officer with an ax to grind likely was the culprit. She asked CIU to investigate, and left the issue alone until she returned from Europe...McCauley told DeCaires that CIU's job is to "find out things." The unit often works in the shadows conducting surveillance and gathering information on citizens suspected of wrongdoing. It's so secretive that the department won't even reveal how many officers are assigned to the division. McCauley said the CIU avoids writing police reports so that its members don't get called into court. The unit primarily works on gambling, prostitution and drug cases. On occasion, the deputy chief said, it responds to calls from politicians and judges who worry that their offices are bugged. "I mean it's not unusual to have requests from public figures to, you know, go find out who's stalking the mayor, who's stalking Tulsi Gabbard, or I feel like I have a bug in my office and things like that," McCauley told DeCaires. "These requests come to us, you know, quite often."<sup>986</sup>

If this report is accurate, the fact there is a secret police unit spying on Honolulu residents and not being accountable through documentation should sound distressing to any privacy or civil rights advocates. In my 26 years of police education, teaching, and law enforcement experience I have never heard of secretive police units in municipal or county agencies who is not required

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983 (Grube, 2016 (McCauley))

984 (Grube, 2014 (MM))

985 (Hawaii News Now Staff, 2016 (Lies))

986 (Grube, 2016 (McCauley))

to document or file reports, and whose members identity are classified. That issue aside, on June 19<sup>th</sup>, 2013, prior to the civil case over the disputed funds, Katherine was deposed by lawyers about her financial transactions with her Grandmother.<sup>987</sup> The meeting was reported to be highly contentious.

On June 21<sup>st</sup>, 2013 (2 days after the contentious deposition of Katherine), reports indicate how the Chief decided to go surfing when he noticed his mailbox was stolen but decided to not tell anyone until he returned home at 9am.<sup>988</sup> When he came home, for some (inexplicable) reason, HoPD CIU Officer Niall Silva was already at his house waiting for him to report the mailbox as stolen.<sup>989</sup> According to investigative reports, CIU Ofc. Silva took a home surveillance video (with no chain-of-custody documentation) from the Chief which supposedly documented a man stealing the Chief's mailbox.<sup>990</sup> Ofc Silva then took the tape to the CIU unit headquarters at HoPD sometime during that morning and transferred the tape to CIU computers.<sup>991</sup> Immediately following this tape transfer Ofc. Silva then returns to the Kealoha residence, all of which takes place prior to the initial call to police by Katherine reporting the theft (and all of which Ofc. Silva later admitted he lied about to federal prosecutors.)<sup>992</sup> According to reports, later that afternoon, at 1:30pm when everyone is gathered at the residence, Katherine calls 9-1-1 to report the mailbox stolen.<sup>993</sup> According to the investigation, this is when HoPD finally officially sends a patrol officer (identity unknown) to their residence to file an initial crime report (#13226943), wherein Katherine swears out a theft complaint for their \$300 mailbox.<sup>994</sup>

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987 (Grube, 2016 (McCauley))

988 Ibid

989 (Daranciang & Shikina, 2014 (FBI))

990 Ibid

991 Ibid

992 (Hawaii News Now Staff, 2016 (Lies))

993 (Kawano, 2016 (Chief))

994 (Mangieri, 2016 (Mailbox))

All of these accounts given by Chief McCauley and CIU officers as to what transpired up to this point for which I have just recounted are disputed by both Katherine and Chief Kealoha in an interview with Khon2 where they recounted how all of the events surrounding the mailbox theft were much simpler and innocent stating,

“Louis went surfing,” Katherine Kealoha said. “He came back that morning and he told me our mailbox is gone.” “On the weekend, I go surfing. I woke up in the morning, put the board on my car and I looked and I said, ‘I think my mailbox is missing,’” Chief Kealoha recalls. “I went to look at it, and I checked and said, ‘Somebody took the mailbox off the stand.’” “I called 911 and I reported it,” Mrs. Kealoha said, “and officers came to our house. It’s a very simple situation. There was nothing fancy or exceptional to that.” A week later, they provided their home surveillance video, and in her subsequent police report, Katherine Kealoha identified the thief as an uncle who was on the other side of a lawsuit against her, filed just months before”<sup>995</sup>

At some point, Chief Kealoha stated he feared someone might think he was directing the investigation (a violation of law and policy due to him being the victim) and called Chief McCauley ordering her to lead the theft investigation. According to Khon2 reporter Gina Mangieri the Chief recalls this phone conversation stating,

“Chief Kealoha said. “I delegated this. I didn’t want to be accused of what I’m being accused of, so I delegated it to the deputy chief (Marie) McCauley and said, ‘You can take care of this situation.’ She actually delegated it to the Criminal Intelligence Unit and they took care of it. She doesn’t micromanage the investigation. She just designates who is going to do it. She designated CIU and it is what it is. If there are any occurrences that come up, then she’ll be informed of what’s going on.”<sup>996</sup>

However, Chief McCauley directly disputes this phone call ever occurred or the fact she was put in charge of the theft investigation due to her being out of the country on a European vacation. According to reports noting McCauley’s statements to FBI investigators,

“But McCauley told DeCaires that Kealoha didn’t report the theft to her. McCauley said she was on vacation in Europe with her son when the chief’s mailbox was stolen. She didn’t learn of the theft until after she returned. She said she did know, however, that the department’s clandestine Criminal Intelligence Unit had been conducting surveillance at the chief’s house in response to numerous reports of vandalism.”<sup>997</sup>

According to statements provided by CIU Ofc. Nguyen (husband of Katherine’s niece and co-occupant of the Chief’s residence), on June 27<sup>th</sup> (6 days after the mailbox incident and during the

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995 (Mangieri, 2016 (Mailbox))

996 Ibid

997 (Grube, 2016 (McCauley))

theft investigation) he noticed someone had broken into the Chief's garage and smashed the taillight of a vehicle belonging to Katherine and the Chief.<sup>998</sup> Ofc. Nguyen told FBI investigators he notified the HoPD Criminal Investigations Division at 8:30am, which then assigned two homicide detectives (Detectives Dru Akagi and Greg McCormick) to investigate the crime as a burglary; case # 13-233141.<sup>999</sup> However, this statement is contradicted by Lt. Walter Calistro who stated he had actually assigned the two homicide detectives to investigate the mailbox incident on June 25<sup>th</sup> and not on June 27<sup>th</sup>.<sup>1000</sup> For some reason, all of these investigations were being handled by specialized units of HoPD despite the mailbox crime being a U.S. postal crime (federal) and thus not within the jurisdiction of HoPD. Also questionable is why specialized HoPD units were being used to investigate a theft instead of focusing on potential terrorist incidents or homicides.

According to Homicide Detectives Akagi and McCormick, they responded to the burglary scene and processed the broken tail light. According to reports that recount Katherine's statements, she said;

"She and her husband told HPD investigators assigned to the case that someone had broken into their garage and smashed the taillight using a screwdriver found in the back seat of the chief's car. Officers dusted the scene for fingerprints and swabbed the screwdriver for DNA. The Kealohas wanted someone to be prosecuted. The alleged break-in and vandalism occurred less than a week after the Kealoha's' mailbox was reported stolen."<sup>1001</sup>

According to FBI reports, Gerard Puana (Katherine's uncle) was the chief suspect in all of the cases, although, "It's unclear from the records why Puana was targeted by HPD for the vandalism."<sup>1002</sup>

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998 (Grube, 2017 (FBI1))

999 Ibid

1000 Ibid

1001 Ibid

1002 (Grube, 2017 (FBI1))

Two days after the taillight investigation, on June 29<sup>th</sup> (2013), Homicide Detectives took the CIU video which depicted a man stealing a mailbox back to Katherine and showed her the ‘now questioned’ footage taken from the home video on the 21<sup>st</sup>.<sup>1003</sup> According to reports, as she was shown the video of the mailbox, she immediately recognized and identified the man in the video to the two detectives. Katherine identified him as Gerard Puana (her uncle), which was the foundation for Akagi and McCormick’s probable cause to arrest Puana, and the foundation for the arrest warrant.<sup>1004</sup> At this point in the stories, the facts become highly disputed.

According to Puana and his attorney, members of the CRU arrested him at 12:30pm as he was entering Saint Peters Catholic Church for afternoon services. The problem with this is the video which Katherine identified him and provided police with probable cause for arrest was not shown to Katherine until later that day at around 2:30pm. If true, this means that police arrested Puana prior to having probable cause to arrest (a civil rights crime known as false arrest). Puana and his attorney claim he was held by CRU members for almost two hours in custody at the church as they waited for Akagi and McCormick to meet with Katherine and make a positive ID. In other words, Puana alleges prior to detectives having the probable cause to arrest him, CRU members who were operating under direct orders of Chief Kealoha, executed an arrest in violation of federal civil rights law.<sup>1005</sup> Media reports highlight how Katherine’s testimony countered Puana’s account noting,

“On June 29, 2013, Katherine Kealoha told HPD investigators she had reviewed a black-and-white surveillance video from her home the night of the alleged theft. The man who drove away with the locked mailbox, she said, was her uncle, Gerard Puana. At about the same time Katherine was talking to police, Puana and his girlfriend were looking for parking at Saints Peters and Paul Catholic Church located on Kaheka Street. When he got out of the car he was approached by police and arrested for felony theft. He now faces a federal charge of destroying a mailbox, a crime that carries a maximum penalty of three years in prison.”<sup>1006</sup>

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1003 (Grube, 2017 (FBI1))

1004 (Grube, 2014 (MM))

1005 (Kawano, 2016)

1006 (Grube, 2014 (MM))



In either scenario (Puana or Katherine's) it seems questionable as to how HoPD officers are typically unable to locate a murder suspect for weeks, even during President Obama's stay on Honolulu,<sup>1007</sup> but in this specific case CRU officers were able to locate and arrest Gerard Puana for a mailbox theft within minutes of there being a positive ID by Katherine who was sitting in her house. This is especially odd if, in fact, the Chief and his case was not given any preferential treatment, as he claims.<sup>1008</sup> It was also this unusual arrest of Puana which caused a mistrial within Federal Court, and which I have previously described as having led to federal judges and Honolulu residents being skeptical of Chief Kealoha's integrity. This is another reason the 3.8 (Meets Expectations) score given to the Chief in the Community Relations section appears not to reflect the community's sentiment, and begins to question the overall rating given to him by the HPC surrounding his personal integrity (**See Appendix G**). Despite receiving an above average rating, the facts of this case were available to the HPC when Senator Will Espero testified before the Police Commission in regards to these issues. This means all of this was known to Police Commissioners when they gave Chief Kealoha his 'S' (Satisfactory) rating in personal integrity, and was one reason residents were confused by the HPC scores.<sup>1009</sup>

The HPC scoring of the Chief's personal integrity as 'satisfactory' is troubling given the evidence of this one case if the facts were ever reviewed. First, the Chief's integrity was called into question over whether he ever actually placed Deputy Chief McCauley in charge of the CIU investigation when she stated it was not true, and secondly, whether he (as the victim) directly or indirectly manipulated a criminal investigation at any point (as is alleged by Ofc. Silva who acted as a whistle-blower for federal prosecutors.) Given the fact only he and Chief McCauley

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1007 (Bernardo, 2016)

1008 (Kawano, 2016 (Chief))

1009 (Civil Beat Editorial Board, 2014 (HPC))

can direct the CIU, and McCauley was off the island, the conduct of the CIU would appear to tie back to his orders. As important is the fact that Chief Kealoha believes operating a specialized police squad whose conduct is non-reportable, non-documented, and situated outside accountability or public review, leads to questions involving whether all of these acts are ethical or not. Finally, and aside from the entire mailbox case, if Dowkins and other HPD officers are indeed telling the truth about Chief's Kealoha's willingness to coverup crimes in order to make himself appear successful as a manager, then this begins to explain other problematic issues such as why he and his staff were adamant in not providing crime statistics for over 3 years and calls into question his integrity. Given how so many questions surrounded Chief Kealoha's integrity by 2015 the Satisfactory rating given to him by the HPC appears more political than anything else.

What analysis of the Chief's job performance appear to demonstrate is how the HPC was unjustified in granting a five-year contract extension to Chief Kealoha in 2015, and begins to explain why the same group refused to hold the Chief accountable for his actions in 2017. These HPC decisions ultimately cost Honolulu residents \$250,000 while allowing the Chief to retire with an unblemished record and collect a pension. Additionally, by not holding the Chief accountable, the HPC has placed taxpayers in the position to have to pay for several legal defenses by the Chief which are being brought by the County of Honolulu Ethics Board over the mailbox issue. The failed leadership, management and ethical behavior of Chief Kealoha, based on this evidence, not only demonstrates why a subculture exists within the rank-and-file which allows elevated levels of police-based gender and ability violence, but also begins to point a finger at the civilian group who empowered and authorized Chief Kealoha to continue neglecting to act as an internal accountability mechanism. When people ask how corrupt individuals

continue to be placed and hired into CEO positions, this evidence begins to explain why. The evidence clearly points to there being no internal accountability tools which protected women, spouses, or the mentally ill from police abuse, nor there being any real oversight of police managers and leaders before, during, or after being exposed as having demonstrated maladministration or mismanagement.

## **5.6 Lessons in Educating the Public on Maladministration and Mismanagement in Policing**

My analysis of Chief Kealoha, the HPC, and HoPD up to this point has demonstrated that many of the problems relating to elevated levels of police-based violence against women and the mentally ill lie with poor leadership and management beginning when Chief Kealoha repositioned the department towards military style policing rather than community based service. Following Senator Thielen and my testimony at the Commission on Accreditation for Law Enforcement Agencies' (CALEA) re-accreditation hearings in April (2015) where she and I provided testimony as to how CALEA guidelines actually allowed HoPD to operate without transparency and accountability, Lynn Kawano broke a story exposing how Chief Kealoha (apparently purposefully) was keeping the suicide of Det. Kyle Suemori quiet and away from the CALEA accreditation investigation. As there is no evidence to the contrary, it appears Chief Kealoha kept the story away from the public so as not to focus light on internal problems involving the domestic violence unit while CALEA was performing their re-accreditation.<sup>1010</sup> It wasn't until two days following the CALEA team leaving the state that Kawano was able to expose and bring light to the suicide of the detective due to his supervisor bullying him while on the job. As of this date (years later) HoPD has never released an apology to the Suemori family,

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1010 (Kawano, 2015 (BD))

held anyone responsible for Det. Suemori's bullying, or made a public statement acknowledging the loss of Det. Suemori.

In May (2015), only a month after the CALEA team departed, Chief Kealoha again demonstrated poor leadership and management when he ordered officers to charge Honolulu prostitutes with sexual assault<sup>1011</sup> while simultaneously urging Governor Ige to veto a sex trafficking bill (SB265), both of which I laid out in chapter 1 during my analysis on intersectional violence against women. I was very affected by these moves by Chief Kealoha as the students and I worked hard advocating and supporting the passage of SB265 during legislative committee hearings. (sex trafficking legislation) only to have him be instrumental in the governor vetoing it.<sup>1012</sup> One report noted,

“The Honolulu Police Department opposed the measure in the Legislature, saying it left out consideration of individuals engaging in prostitution of their own free will. The state Attorney General also expressed concern that the bill overlapped and conflicted with existing laws as well as made prosecuting sex trafficking cases more difficult.”<sup>1013</sup>

As I outlined previously, Senator Espero, several other state lawmakers, and I were all involved in talks at the State Capitol in November 2015 about strategies to revamp the state's policing oversight tools, which was where Lynn Kawano, Keoki Kerr, Nick Grube, and Hawaii News Now reporters routinely were present. These journalists were also present when the students and I testified during legislative hearings in 2015 and 2016. This is why I was cooperative when approached by Lynn Kawano in November (2015) wherein she asked me if I knew about the issues involving the FBI investigation into Chief Kealoha. After speaking with her about what I was aware of and how the media was distorting the importance of the case by focusing on the mailbox rather than the racketeering, I was happy to cooperate with her. She asked if I would be

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1011 (Davis, HPD arrests more than a dozen women in massage parlor prostitution sting, 2015 (HPS))

1012 (Grube, 2015 (SB265))

1013 Ibid

willing to clarify what the case was really about, and what its true implications were to Honolulu residents.



Figure 14: Discussing Chief Kealoha's FBI investigation and Grand Jury on Hawaii News Now (Nov. 2015)

In February (2016) Senator Espero, the students and I were (as previously noted) deeply involved in attempting to pass the aforementioned two pronged legislative remedy to police oversight (the state-wide standards and training board (SB2755) and the state-wide law enforcement Independent Review Board (SB2196)) when Chief Kealoha announced his decision to promote former convicted domestic batterer Major Borges to the #3 position in HoPD.<sup>1014</sup> The Chief's announcement occurred almost simultaneously with Senator Espero sending me court documents involving the \$4 million EEOC lawsuit filed by HoPD Sgt. Dowkin.<sup>1015</sup> All of this evidence helped formulate my opinion as to how Chief Kealoha's attitude towards minorities, women, and the disabled was not in line with best police practices.

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1014 (Grube, 2016 (GBK))

1015 (Bennet, Merit ESQ., 2016)

In March (2016) I was briefed by state lawmakers and reporters on what court documents revealed about the ongoing FBI investigation into HoPD Chief Kealoha's investigation of the Puana mailbox issue (discussed previously). Shortly after doing a news feature with *Hawaii News Now's* Lynn Kawano attempting to further clarify what was being alleged against the Chief and how it amounted to racketeering rather than a mailbox theft,<sup>1016</sup> Senator Espero and I met to discuss how best to pressure county officials to realize the mounting financial liability of Chief Kealoha. My recommendation was to confront the Honolulu Mayor and councilmembers with the evidence. My confrontational drive was mainly due to my background as a soldier and law enforcement officer, and not as a feminist or academic. Senator Espero, however, made clear how Honolulu residents and councilmembers have a history of not reacting positively to confrontational controversy. He pointed out that a strategy of constantly contradicting police manager's attempts to use legal terminology to misguide and misdirect the public away from their misconduct. According to Senator Espero, a strategy wherein experts would continuously appear on television and educate the public would be better suited for the temperament in Honolulu. Senator Espero began to make himself available as the face opposing Chief Kealoha in an effort to demonstrate to the public how there was a dissenting voice to that of police. Using logic and evidence against police managerial misdirection was also the strategy used by HPC Commissioner Sheehan<sup>1017</sup> when confronting misinformation from HoPD managers, further demonstrating how important it was to use logic and rational arguments rather than a confrontation tone when attempting reform of police in Honolulu.

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1016 (Kawano, 2016 (Chief))

1017 (Kawano, 2016 (RKL))

Senator Espero encouraged me to put myself into the role of being a police officer with experience who was willing to question or contradict questionable police management decisions at HoPD, thus demonstrating to the public how there is more than one method of policing, and making clear the difference between ‘good cops’ and ‘bad cops.’



Figure 15: On Hawaii News Now clarifying how Chief Kealoha's mailbox case was really about public racketeering (March 2016)

As I pointed to in almost every proceeding chapter, anyone considering putting themselves in this position should understand there is a risk associated with this strategy, as the media in Honolulu has a habit of repeating police assertions without question and berating people who take a stand against police.

As I continued to testify on police reform legislation during the 2016 legislative session, more journalists began to turn to me as a counter-voice to police managers who were now being openly confronted by state lawmakers and journalists asking questions about police conduct. The police union and managers began to attempt to dissuade anyone from speaking against

police interests during legislative sessions to include other activists who were working towards reforming HoPD's domestic violence policy. Using me to comment about Chief Kealoha also allowed *Hawaii News Now* and *Civil Beat* reporters to have multiple viewpoints on previously unchallenged police management statements, conduct, or decisions. Shortly after Chief Kealoha hired a PR firm in April (2016,) <sup>1018</sup> some Honolulu journalists began attacking other reporters (and their interviewee's) whose efforts were aimed at questioning police and SHOPO over misconduct or the FBI investigation. <sup>1019</sup> Perhaps because I was used throughout 2016 continuously by local and national journalists to explain where HoPD managers were off point in their decision making, or where Hawaii laws involving police needed improvement, I became a target of one of these journalists whose intent appears to have been to politically derail reform efforts by questioning my (and other experts) credibility.

From November (2015) – June (2016) I had done a number of interviews attempting to explain the ongoing federal investigation and grand jury on Chief Kealoha, and how it was more than a simple mailbox issue (as many Honolulu journalists attempted to characterized it). Many of these interviews used either Hawaii State Senator Espero or Hawaii State Senator Thielen in addition to me, but usually had us both (or all) pointing to questionable decision by Chief Kealoha or HoPD Managers.

In July (2016) I was contacted by HPR's (Hawaii Public Radio's) Beth Ann Kozlovich who wanted to arrange a panel interview for a show on community policing and the Law Enforcement Independent Review Board which Senator Espero and I had worked to get signed into law. It is here I must (in full disclosure) admit how I grew up listening to NPR and public radio in

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<sup>1018</sup> (Cataluna, 2016)

<sup>1019</sup> (Oppegaard, 2016)



Oakland and Berkeley. Being invited to speak on HPR was a bucket list item which allowed me to feel as if I would reach an audience I had never dreamed of having access to. It was the lesson to *never give up*. The HPR show allowed Senator Espero and I to attempt to explain the two-pronged accountability plan to the community and HoPD officials, as Captain Rade Vanic (who worked directly for Chief Kealoha) was also invited to be on the panel.



**Figure 16: HPR (NPR) radio show on Community Policing: Pictured (left to right) Capt. Rade Vanic, Beth Ann Kozlovich, myself, Hawaii State Senator Will Espero (July 2016)**

After July (2016) my focus was less on Chief Kealoha, and more on exposing people to the fact there was a Charter Proposition on the November elections ballot (Charter Proposition #1, which I outlined previously). Although I was still providing selective interviews to PBS (October 2016) and Hawaii News Now (November 2016) on police reform and charter amendment issues, I felt compelled to wait for the Grand Jury to complete their investigation before attempting to make clear anything more surrounding the incidents involving Chief Kealoha. As fate would have it, I was not forced to wait for long.

By December (2016) the FBI had gotten their first HoPD whistle-blower willing to cooperate with federal investigators looking into Chief Kealoha's actions during the Puana/mailbox investigation (Ofc Silva).<sup>1020</sup> Once again, Hawaii News Now allowed me to explain to the public the nuances of what ROPA (Relief of Official Power Act) meant, and why Chief Kealoha would be forced to step down.<sup>1021</sup> Honolulu Mayor Caldwell's new HPC Commissioners' now had their first real dilemma, as there was no denying whether an investigation of Chief Kealoha existed or not. The new questions involving Chief Kealoha was whether HPC Commissioners would use the voters' mandate given them by the Charter change a month earlier in November (2016) to fire Chief Kealoha, or would they take advice given to them by Honolulu Corporate Counsel suggesting Chief Kealoha was entitled to a payout based on the 2015 contract renewal given to him in March (2016).<sup>1022</sup>



Figure 17: On Sunrise Honolulu with Mileka Lincoln explaining why Chief Kealoha was forced to resign (Dec. 2016)

In January (2017), just a short time after appearing on the news, I made my first appearance before the new HPC. I introduced myself and simultaneously explained why I had resisted

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1020 (Hawaii News Now Staff, 2016 (Lies))

1021 (Hunger, 2016)

1022 (Kawano, 2017 (HPC?))

engaging with Commissioners up to that moment. During the January meeting, Commissioners had allowed one brief period for Honolulu residents to give input surrounding what to do with Chief Kealoha's contract after being officially notified of the FBI investigation into his use of police power. Once again Hawaii State Senator Espero and I were on the forefront of the issue, testifying to both the Police Commissioners and the media as to what was at stake. I made clear in my testimony to HPC commissioners how their decisions about this issue was an opportunity for the HPC to begin restoring public trust in the police services of Honolulu after having appeared to give the Chief a politically protective job evaluation rating in 2015 which renewed his contract despite evidence his performance was not worthy of their evaluation score (**See Appendix G**). Unfortunately, as I previously stated, this moment exposed deep divisions which were forming within the HPC between Commissioners unwilling to make difficult political choices in police reform, with those who were.<sup>1023</sup> Noting these divisions, Lynn Kawano said during her lead in to the report on the Honolulu Police Commission's January 3<sup>rd</sup> (2017) meeting,

“The Police Commissioners stated they needed more time and more information. Clearly they were divided about what to do next with embattled Police Chief Louis Kealoha.”<sup>1024</sup>

Now faced with replacing the HoPD Chief and chain-of-command, HPC Commissioners will be looked to once again to provide leadership. While Commissioner Sheehan wanted to evaluate or attempt to prove maladministration, five other Commissioners chose to simply use another \$250,000 of Honolulu residents' money to buy off Chief Kealoha and make him go away.<sup>1025</sup>

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1023 (Kawano, 2017 (HPC?))

1024 Ibid

1025 (Kawano, 2017 (KPO))



**Figure 18: Testifying during Chief Kealoha's retirement hearing in front of the Honolulu Police Commission (Jan 2017)**

With Chief Kealoha being one of the costliest police chiefs in Honolulu history, hopefully Honolulu leadership will continue to see the value of investing in more experience-based leadership on the HPC Commission, and how suggested charter revisions addressing SHOPO's powers to control the HPC can be undone. Almost on cue, as soon as Chief Kealoha was removed from office, SHOPO president Ma'afala stated how his preference is to (once again) hire a Chief from among the already problematic current chain-of-command, and how HoPD officer morale is high. As the media has pointed out, there have been two police shootings during Chief Kealoha's leadership removal, which have left officers unchallenged by the temporary Chief or external oversight of their conduct.<sup>1026</sup> Reports noting this cite Ma'afala as saying:

"From a personal standpoint, it would be great to have someone that's already in the department that knows the inner-making of the department, and of course, a finger on the pulse, if you will, of how the department is today with regards to morale," said Ma'afala, "and in light and in spite of what's happening with the Chief Kealoha and Mrs. Kealoha's investigation." Despite the investigation, Ma'afala says there's no problem with morale in the department. He pointed to two recent officer-involved shootings that happened in Kahalu'u and Kahuku, saying if there *were* morale issues -- HPD may have not responded to those situations."<sup>1027</sup>

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1026 (Island News Webstaff, 2017 (CKR))

1027 Ibid

Also exposed in his statement was how skewed the police manager/ police union relationship was, noting how he and Chief Kealoha were close personal friends and ‘brothers in blue’. Now that HoPD leadership is in the process of being replaced, hopefully Honolulu Commissioners and lawmakers see this moment as a new beginning. While the systemic problems of accountability have not yet been fully resolved, the removal of leadership obstacles within the department is both a powerful symbol and a necessary step in resolving the violent conduct of HoPD officers which militaristic leadership has led them to.

So, what are the lessons of this journey, and how does it relate to the ability of police violence against women and the disabled to reform police? The lesson is that it doesn’t always take violence or chaos in the streets, or a conglomerate of people willing to be confrontational, to effect change, but the wheels of progress move slowly surrounding police reform. Feminist methodology appears to demonstrate where working politically to surgically change policy can be just as effective, given an environment and community which is open to change but change occurs as *slow as molasses* and only when activism is inclusive to the process. While I still agree with some activists on the need to sometimes inconvenience people in order to draw attention to a just cause, I also feel it is important to attempt to work within the system. There are layers and layers of resistance built within our political process, but it seems to work if federal, state, and county legislators work together towards a common goal. Unfortunately, I use my journey and experiences to demonstrate that while there is the ability to use the political process to make advances towards reform, there is also mechanisms within the political process to stall and delay change and reform. This is why external activism has a place and why safeguarding a right to protest and speak out is as important as teaching investment in the political process.

## **CHAPTER 6**

### **CONCLUSION**

#### **6.1 Conclusion Overview**

In this final chapter I describe the lessons learned about why police agencies in Hawaii have been effective in thwarting efforts at reform, beginning with an analysis of both the importance in having federal legal tools to oversee police, and the difficulty of exposing blatant misconduct and maladministration when discussing police executives. I begin by describing the process used to bring attention to the ongoing federal investigation and prosecution of Chief Kealoha, which eventually led to his resignation in 2017. I then make recommendations on how best to continue to address police-based violence against women and disabled people (statewide) by addressing training of police. Only when tools to equip officers to cope with the new warrior mindset involved in counter-terrorist training are situated outside of police agencies and include licensing and civilian-led standards boards will residents living in the state of Hawaii be certain that they are being provided the best trained police. Finally, I conclude with my analysis of whether women and the mentally ill were able to progress police reform legislation and policy on levels seen with other communities grappling with police race-based violence.

#### **6.2 Recommendations on Future Police or Oversight Mechanisms for Hawaii**

As I outlined when discussing the success of the Elderts-Haleck Act (Act 161), there were many bills in both the 2015 and 2016 legislative sessions that did not pass into law. While many of these bills involved specific training or oversight methods for police which should be a priority, the fact is many of these narrowly targeted bills can actually better be addressed in one more encompassing bill. Unfortunately advocates, lawmakers, and activists have been slow to

understand how state licensing of police through a statewide law enforcement standards and training board would actually remedy many other aspects of police reform which involve training, hiring, or oversight.

Additionally, while legislation was passed which authorized and funded this civilian-led external oversight board, the governor and lawmakers have failed to appoint anyone or pressure the state's attorney general to enact the legislation. This is another reason why even when legislation has been passed, the police appear successful in fending off any reform efforts. Of all of the legislation passed during the 2016 session, only the issue involving the handling and processing of rape-kits have been given attention by police managers mainly due to the external attention given to the subject by the media, feminist activists, and police commissioners. Most of the tools designed to track and identify misconduct or policy violations by police have not been acted upon or have been shelved by the same lawmakers who passed this legislation. This is why I believe an important lesson learned during my research when attempting to reform police policy, it is best approached simultaneously through political engagement and external activism. This is also where I believe Feminist based community activism research has a real place in the future of social and political science. Left unreformed and providing the largest obstacle to future reform is how police are trained across Hawaii, and who oversees standards of conduct industry-wide in policing.

Most states also have a non-legal (bureaucratic) remedy to address police misconduct through a state licensing mechanism.<sup>1028</sup> If an officer is convicted, or found in violation of policy, a state board may remove their license to hold police authority in the state. In 49 of 50 states (Hawaii is

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1028 (International Association of Directors of Law Enforcement Standards and Training, 2014)

the exception) there exists some form of state-level control over police either through a state-level licensing or certification bureaucracy whose sole function is providing accountability over law enforcement agents.<sup>1029</sup> Hawaii remains the lone state having no licensing mechanisms or certifying bureaus to govern police who operate within (or throughout) the state.<sup>1030</sup> Because of the unique geographic and constitutional provisions outlined for law enforcement operating in the separate counties throughout the State of Hawaii, there are actually very few state law enforcement officers compared to the number of county employed law enforcement officers working statewide. While the State of Hawaii has failed to create a licensing agency for police, Honolulu county did create a non-legal (bureaucratic) recourse to address police misconduct: the Honolulu Police Commission (HPC). The HPC, however, is limited to misconduct issues rising only to the level of non-criminality (e.g. rudeness). As I previously outlined in my analysis of the Helm's lawsuit and other cases of misconduct involving the Chief of Police, the problem with the HPC is it is also accused of being in collaboration with police executives and police union leaders.<sup>1031</sup>

Although 49 other states have recognized the importance of police licensing (or certification) agencies to the process of professionalizing police (e.g. California's Police Officer's Standards and Training (P.O.S.T), or Florida's Department of Law Enforcement (F.D.L.E.) both of which are run at the state level as independent civilian-led monitors who oversee all law enforcement standards, training, certification, and licensing) Hawaii has failed to legislatively keep pace with the rest of the country.<sup>1032</sup> The results of this void to professionalize police has drawn national

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1029 (Grube, 2015 (NB))

1030 (Grube, 2015 (NB)) (Kerr, 2016 (GOR)) (Kerr, 2016 (GSW))

1031 (Grube, 2015 (PCT)) (Grube, 2015 (NCR)) (Grube, 2014 (BC)) (Grube, 2015 (IKN)) (Grube, 2014 (CK))

1032 (Grube, 2015 (NB)) (Grube, 2013 (WO)) (Grube N. , 2014 (ST))



and international criticism, pointing to the fact that Hawaii has become the fifth deadliest state (per capita) resulting from police-based violence as a result of police misconduct and ability to carry out their duties without licensing.<sup>1033</sup> The failure of state lawmakers to demand minimum performance, hiring, training, operations, and policy standards for police has also directly contributed to the growing number of cases involving gross corruption or policy violations by police in all counties statewide.<sup>1034</sup>

As previously mentioned with California's P.O.S.T and the F.D.L.E, other states have addressed systemic police corruption and unprofessionalism by creating state-level standards and training boards.<sup>1035</sup> These state licensing boards provide administrative and managerial oversight of all law enforcement agencies operating throughout a state's jurisdiction, thereby acting as another external civilian-led accountability mechanism overseeing police. These boards' responsibilities also include setting hiring standards for potential law enforcement candidates, which if created in Hawaii would override HoPD's reluctance to raise their hiring qualifications. Many states' statewide standards boards are also charged with ensuring independent background checks are conducted on all police candidates applying to operate as a police officer in the state prior to licensing (in addition to the agency hiring the candidate), and with overseeing and ensuring county and state hiring practices comply with minimum agreed-upon qualifications. This creates a dual layer of oversight necessary to safeguard citizens, given the authority and power the state entrusts to individuals allowed to serve as police.

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1033 (Grube N. , 2015 (KMP))

1034 (Daysog, 2015) (Daysog, 2014) (Hawaii News Network, 2013 ) (Kawano, 2014 (BCND)) (Kerr, 2013) (Kerr, 2014)

1035 These are known as: State Departments of Law Enforcement (DLE), Law Enforcement Standards and Training Boards (LEOSTB), Peace Officer Standards and Training Commissions (POST), Peace Officer's Standards and Training Boards (POSTB), or Police Officer Standards and Training Boards (PSTB).

Many states' agencies also include pre-employment screenings for those who wish to laterally transfer into a law enforcement agency located within the state from another law enforcement agency (either intra or interstate.) Standards boards are responsible for ensuring all police officers in the state are tracked in a database whose purpose is to ensure individual licenses remain current, and officer's mandated training is completed by their departments. In all 49 other states, these state level standards boards are interconnected by a network whose purpose is to protect the public from officers who are decertified and who seek to get rehired elsewhere. The network is overseen by the International Association of Directors of Law Enforcement Standards and Training (IADLEST),<sup>1036</sup> which maintain a national database of officers who have been de-certified or fired (except from Hawaii).<sup>1037</sup> This allows state Standards Boards to be aware of individuals dismissed or fired from other law enforcement agencies (nationally) and thus barring them from being employed to police within the state.

Although each county in Hawaii is constitutionally empowered to create and operate a unique system of check-and-balances over their individual policing services (e.g. the Honolulu Police Commission), the growing number of police misconduct cases involving violence (statewide) suggests that one statewide fix, addressing training and standards of conduct by license enforcement, would provide a needed level of statewide accountability. Although Hawaii State Senator Will Espero introduced legislation for a Hawaii law enforcement standards board in 2014, 2015, and 2016, each year SHOPO and county police Chiefs have adamantly (and successfully) opposed his efforts. Even when HoPD was faced with internal cheating and scandals in their privately-run police academy, SHOPO and Chief Kealoha pressured lawmakers

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1036 (International Association of Directors of Law Enforcement Standards and Training, 2014)

1037 (Formerly known as P.O.C.I.S., now known as the National Decertification Index) (IADLEST, 2016)

on the Senate's Public Safety Commission to kill the bills, suggesting the need for statewide police training oversight outside of the police department's bureaucracy.<sup>1038</sup>

Importantly, the establishment of state minimal guidelines and standards does not diminish the ability of individual county police agencies to demand policing candidates be given additional training by their own departmental academies after being trained to state guidelines. This is routinely done in other states where officers attend two separate academies, one after the other. The process is designed to tailor the officer to their respective agencies and communities. This was what I underwent while licensing in both Florida and California. Police recruits are thereby exposed to two training academies before being released to their Field Training Programs (F.T.P's) giving them multiple perspectives and tools from which to develop strategies to resolve disputes.

State licensing of police should also not be seen as interfering with a police chief's ability to employ individuals or swear them with localized policing powers, unless the individual is barred, or cannot qualify to possess a state license. However, the boards also act as another layer of oversight of police. In order to maintain consistent statewide standards, state boards may take away an individual's license without permission or over the objections of the police chief. This licensing oversight is similar to bus drivers or other licensed professionals who operate in the state of Hawaii and must be licensed by (both) the state and the county they perform services in, and which then usually requires them to receive addition training by their employers.

Most state licenses for police are divided into basic, intermediate, and advanced certification based on rank and responsibility. Levels of certification or licensing are also based upon

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1038 (Shiraisha, 2016)

educational background, skill possession, and managerial ability.<sup>1039</sup> Law Enforcement managers and supervisors are not exempt from state licensing, and must possess the proper level of license prior to applying for or accepting a position as a departmental manager or supervisor. This ensures ongoing standards and training for managers is not overlooked, and lends itself to supporting national best practices which are constantly being updated by criminologists and academics outside of the profession. This has had the effect of allowing local standards boards to make constant policy and training recommendations to their state police agencies based on community feedback and research findings.

As a cost-saving measure, some states have taken the additional step of relieving individual police agencies from having to provide and fund academy training, instead integrating all state police certification training into their community college system.<sup>1040</sup> Another cost saving measure is to create a pathway for individuals wishing to become police officers, but who are not hired by an agency prior to academy training, to instead seek certification via the standardized academy as a method of pre-employment screening. If this option is instituted, police agencies would then have the ability to either recruit officer candidates prior to their police academy training, or wait until individuals prove they will successfully complete training prior to initiating costly background investigations. Additionally, space necessary for training police is similar to college environments which combine athletics and academics. Using community colleges, as is the model in many jurisdictions nationwide, saves on having multiple large institutions dedicated to the same purpose.

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1039 IADLEST has a minimum standard for all states who seek to be included in the network. See: (IADLEST, 2016)

1040 Los Medanos Community College police academy is an example. (Los Medanos College, 2016)

Two of the most successful police/college integration programs are in California and Florida, where the Florida Department of Law Enforcement (FDLE) and the California Peace Officer's Standards and Training (POST) oversee the programs, and which I mentioned I graduated from. In these states, community colleges are the sites for police academies to train both employed and non-employed candidates together.<sup>1041</sup> This standards and training model does not diminish the ability of policing agencies throughout the state to set their own standards, provided those departmentally specific standards exceed the established minimums prescribed by the state board. State licensing agencies are also active in working with each department in the state to set educational incentives and develop better service strategies based on identifiable weaknesses. Changes in training standards are also partially based on data the state Standards and Training Boards continuously collect and analyzes.

Some state licensing boards have also been empowered to investigate police shootings independently from the responsible police department as a way to build public trust as an outside accountability mechanism. Most state licensing boards also collect and consolidate Uniform Crime Information, which has recently become a duty of the Hawaii Attorney General. One of the most important functions of the licensing agencies is to act as an instrument of last resort in cases involving officer misconduct where the police agencies and their police commissions disagree (e.g. Helms Lawsuit). Many states have decided to allow their state-level police licensing boards to act as central law enforcement clearinghouses, operating within the State Attorney General's Office. As the state's "top cop" the Attorney General in Hawaii is positioned correctly (bureaucratically) to oversee this critical oversight component if one is ever created by the legislature.

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<sup>1041</sup> (Los Medanos College, 2016) (Miami Dade College, 2016)

Given its importance, it would seem obvious to institute police licensing in the face of the sheer scope of misconduct by HoPD under Chief Kealoha. However, although Senator Espero and I have attempted to convince public safety and judicial committee lawmakers as to the critical nature of this institution and mechanism, SHOPO's president and HoPD managers have been able to block every effort. Despite having overwhelming public support evident through two years of testimony submitted with proposed legislation, lawmakers are still unwilling to take action.

In 2015 the Standards Bill (SB568-SD1) was one of fourteen important reform bills which advanced to the combined Ways and Means (Funding) & Senate Judicial Committee from the Public Safety Committee. As previously mentioned, Senators Jill Tokuda and Keith-Agaran were responsible for killing 82% of all public safety reform legislation that year, including the proposed state-level Standards Board. It was for this reason so much strategy went into the 2016 Standards Bill (SB2755-SD1-HD1). SB 2755 advanced all the way to the final committee (the full legislature), where lawmakers quietly ignored it, thus allowing the bill to die once again. Speaking to Washington Times reporters, Robert Ford, one of my students in the coalition, attempted to make plain how important licensing of police really was to Honolulu residents, noting,

““Even barbers have to be licensed for their jobs, so how come law enforcement officers, who have the power to arrest and invoke fines and even are capable of taking a life in some situations, don't have to be licensed?” said Robert Ford, a student in the criminal justice program at Remington College who testified in support of the bill.<sup>1042</sup>

Despite being presented with the evidence of police misconduct statewide, state legislators have constantly refused to pass legislation to create a board whose purpose was to license police and oversee statewide unified standards. Tellingly, 2017 will be the first year, in several, where there

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1042 (Bussewitz, 2016 (LMR))

will be no legislation suggesting a statewide standards and licensing board for police. State Senator Espero, longtime champion when he was on the Public Safety Committee, has abandoned the idea of instituting a permanent tool or agency as he was removed from his longtime position by senior legislators and reassigned to the State's housing committee. Because of this he submitted a proposal asking for a legislative working group, which would terminate after twenty-four months and would only be authorized to submit a report to the governor on what standards should be used for police. The bill makes clear Espero has been politically reduced to asking for report writing rather than legislation, noting how his new bill only called for suggestions on recommendations. According to his bill's language,

"The final report to the Legislature shall include the statewide recruitment, hiring, and training standards for all law enforcement officers in order to be certified by the state to serve as a law enforcement officer. "<sup>1043</sup>

This is short sighted and would effectively table the ability of lawmakers to propose any state licensing mechanism during the 2018, 2019, 2020, 2021, 2022, 2023, and 2024 legislative session while a report is being prepared for the governor. This time frame is due to the bill requesting a five-year period to assess how best to approach the issue beginning after the 2017 legislative session (2018), and calls for the report to be submitted in 2024. What Senator Espero refused to acknowledge after his removal from the Public Safety Committee in 2017 was that a report cannot produce or mandate standards for law enforcement agencies. His argument that a report is better than nothing, is not true and is demonstrative of how doing something is sometime worse than tabling the issue and doing nothing. In this case, nothing is better than a report which could not develop a standard, as standards are meant to constantly be changing and growing as police tactics and social needs change. This means by the time the report is adopted, the standards it suggested would most likely be outdated.

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1043 Language from SB566 (2017)

This why a statewide agency dedicated to police licensing remains the most critical reform for Hawaii if residents are to ever have professional police in line with every other state in the United States. However, there is little hope of this type of progressive reform legislation passing as there is no longer a student coalition, my presence or activism, or the support of other criminologists in Hawaii. Unfortunately, the 2017 legislative session turned out to be another year leading residents down the long road of choosing the status quo over real reform. But this was clearly by design as senior lawmakers targeted Senator Espero who was removed from the committee overseeing public safety. Perhaps when Hawaii legislators view the social stakes as being higher, and riots begin, police licensing will be taken seriously. I doubt police reform will be taken seriously until the violence is at the statehouse steps, and colonial legislators begin to see how choosing to do nothing is a threat to their hold on power. Then legislators will have to choose whether to finally act, or use police violence to quell political dissent.

### **6.3 A Final Word**

My dissertation research was designed to determine if police-based gender violence, and violence against people with disabilities, has the same ability to incite reform of police policy as race-based police violence has in other communities across the United States. My conclusions are, given the right environmental and political conditions, gender and ability-based police violence has as much (if not a greater) ability to reform police systemic tools of accountability than does race alone. I also find that when activists narrow reform arguments to racial misconduct alone, they bypass the ability to speak to a larger audience about the ongoing misconduct by police directed at other potentially powerful reform groups. My finding is largely based on the fact I can find no other city or state who (as a result of race-based police violence)



changed police leadership, state law, county charter, and departmental operations and policies. I further find that given respite, lawmakers are apt to dismiss reform platforms and are more willing to take the side of police and police unions when crafting or deciding legislation.

What this appears to mean is while black lives *do* matter, when attempting policy reform of police maybe singling out race and excluding gender and ability as justification for reform may actually retard or create an unjustified push-back. The day after President Trump took office, women (once again) demonstrated how powerful their voice was in progressing social issues. Hopefully the lessons I learned and the data I collected in Honolulu helps civil rights leaders and activists around the country determine if the strategies being used to demonstrate unjust racial police policy isn't being undercut by a political message. I also hope my research is turned to one day by local lawmakers and activists who seek to produce real reform.

Although legislation was passed in 2016, several improvements to the state's criminal justice system were left undone and remain critical: 1) Hawaii state legislators need to make law mandating police misconduct cases be handled by the State Attorney, and not by individual county prosecutors. 2) S.O.S and other community based domestic violence programs need expansion to operate statewide and within every community. 3) Act 161 - The Law Enforcement Independent Review Board needs to A) be staffed, B) begin operation, and C) begin reviewing all police shootings statewide. 4) The HPC's authority should be expanded to include more outside review of alleged officer misconduct, and empowered with the ability to review disciplinary outcomes issued by the HoPD Chief. 5) All counties should be mandated into requiring additional expertise when appointing their police commissioners which include a legal, criminal justice, or law enforcement background apart from the agencies they are presiding over,

and maybe most importantly 6) A statewide licensing and standards agency operating in the office of the State Attorney General as can be found in every other state.

I conclude my dissertation with a final lesson and thought. In Honolulu, police policy reform was accomplished peacefully and without violent push back as I witnessed in many other communities grappling with similar issues. Although it is true HoPD officers continue to be politically and legally shielded from culpability by SHOPO-supported politicians who are frightened of the political clout the police have, many changes to how police operate and their oversight have begun to occur, sparked by good cops who are tired of being portrayed with the bad.

More systemic revisions are desperately needed for police oversight in Honolulu to truly be fully realized; however, the fact a bunch of students and their instructor were able to help influence changes to state law, county charters, police management, and departmental policy has taught all of us how nothing is impossible. Honolulu has accomplished in three years, what many communities still struggle to conceptualize. I hope the lessons I learned help others with their endeavors to reform police misconduct and corrupt behavior.



**Figure 19: Cement Bus Stop Seat situated directly in front of Honolulu Circuit Courthouse (2014-2017)**

## APPENDIX A – HoPD Gender-Based Violence & Misconduct Tables

### Phase II – HPD Gendered Violence 2010-2015

	Name of Officer Involved	Date	Crime/ Charge	Action Taken
1	Captain Mark Ward	05/2010	Assault – (J/F)	Dismissed
2	Lt. Jason Kawabata	09/2010	Domestic Violence	Dismissed (Promoted)
3	Ikaria Silva	10/2010	Domestic Violence	Dismissed
4	Paul Goo	03/2014-04/2014	Rape (F)	Unknown
5	Danson Cappa	09/2013- 04/2014	Domestic Violence	Probation (No Jail)
6	SHOPO / Chief Kealoha	03/2014	Prostitution policy	Reversal of policy
7	Roddy Tsunozumi	04/2014	Extortion / Domestic Violence	Federal Prison
8	Chief Kealoha / Vice Commander	05/2014	Prostitution policy	Reversal of policy
9	Nicholas Masagatani	08/2014	Rape (F)	Dismissed

### Phase II – HPD Gendered Violence 2010-2015

	Name of Officer Involved	Date	Crime/ Charge	Action Taken
10	Darren Cachola	10/2014	Domestic Violence	Dismissed
11	Scott Christopher Kobayashi	10/2014	Domestic Violence	Pending
12	Kramer Jay Suedi Aoki	11/2014	Rape (J) (F)	Dismissed
13	Kyle Suemori	04/2015	Suicide	Supervisor Transferred
14	Anson Kimura	04/2015	Battery (F)	Pending
15	Unknown (8 yr. veteran)	05/2015	Rape (F)	Unknown
16	Alan Ahn	08/2015	Domestic Violence	Pending
17	Bobby Harrison	10/2015	False Arrest/ Battery (F)	Pending
18	Taase Faumi	11/2015	Domestic Violence	Pending
19	Marc Brandt	12/2015	Domestic Violence	Dismissed by Prosecutor
21	Michael Tarmoun	07/2009	Rape (F)	Fled to Morocco

## APPENDIX B – HoPD Non-Gender Violence & Misconduct and Ability Based Homicide Tables

### Phase II – HPD non-Gendered Violence 2010-2015

	Name of Officer Involved	Date	Crime / Charge	Action Taken
1	Major Carlton Nishimura	2005-2010	RICO / Drugs/Lying	Federal Prison
2	Duke Zoller, Aaron Bernal, Christopher Bugarin, Patrick Bugarin, Brian Morris	08/2009-01/2010	Falsifying Doc/ Theft	Dismissed
3	Mitchell Tojio, Jim Yasue	11/2009-01/2010	Falsifying Doc/Fraud	Unknown
4	Scott Valdez	03/2010	Battery (M)	Mistrial / Unknown
5	Boyd Kamikawa	04/2010	DUI-Homicide	30 days jail/ Probation
6	Dave Furtado	08/2014-10/2014	Falsifying Doc/ID Fraud	Plea- No Jail
7	John Rapozo	09/2010	Theft	Plea – No Jail
8	James Yee	12/2010	Theft	Plea – No Jail
9	Nalei Sooto, Randall Rivera, (+6 unnamed)	02/2012	Excessive Force	Not Charged (Paid)
10	Michael Steven Chu	04/2012	Poss./Sale Drugs	Federal Prison
11	Richard Wayne Raquino	05/2012	Lying to FBI/ Exposing Info	Federal Prison
12	Unnamed Officer	06/2012	Beating Jonah Kaahu	No Charged (Paid)
13	Unnamed Officers	01/2013	Killing Gregory Gordon	Not Charged

### Phase II – HPD non-Gendered Violence 2010-2015

	Name of Officer	Date	Crime / Charge	Action Taken
14	LT. Colin Wang	03/2013	DUI	Plea – Still working
15	Police Chief Louis Kealoha	06/2013	False Arrest/ Perjury / Falsifying Doc	Pending
16	Lyle Castro	02/2014	Robbery	Plea – No Jail
17	Unnamed Officers	07/2014	Killing Richard Nelson	No Charges
18	Unnamed Officers	08/2014	Killing James Pickard Jr.	No Charges
19	Robert Steiner	10/2014	Excessive Force	Not Charged
20	Vince Moore, Joe Becera, Nelson Tamayori	10/2014	Excessive Force/ Falsifying Doc/ Perjury	Federal Prison / Probation
21	Unnamed Officers	04/2015	Killing Sheldon Haleck	No Charges
22	Richard Staszyn	06/2015	Burglary	Plea – No Jail
23	Slave Seti Jr	07/2015	Excessive Force	Pending
24	Landon Rudolfo	11/2015	RICO / Conspiracy/ Theft	Pending
25	Travis Copeland	12/2015	Overtime Theft/ Falsifying Doc	Pending
26	Aaron Roberts	12/2015	Kidnap Juv/Theft from Juv.	Pending
31	Shayne Souza, Kevin Fujioka	11/2009	Poss. / Sale Drugs	Fired (Reinstated)

## APPENDIX C – 2015 Hawaii State Legislative Attempts to Reform Police Oversight Results

### 2015 Hawaii State Legislation Police Reform Bills (Phase III)

Bill #	Description	Who	Action	Where
SB109	Strengthen County Police Commission Authority	K	No Hear	JUD
SB185	Prohibiting LVNR (Choke Holds) by police	K	No Hear	JUD
SB199	Funded Police Dash & Body Cameras	T	No Hear	WAM
SB275	Sexual Assault Training & Evidence Processing	I	PASSED	No Sign
SB388	County Police agencies must post policies online	L	PASSED	Signed
SB389	Expertise added each County Police Commission	K	No Hear	JUD
SB396	Domestic Violence victim protection bill	K	No Hear	JUD
SB497	Sunshine for terminated police officers	K	Defer	JUD
SB563	Mental Health training for Sheriff's and Corrections	T	No Hear	WAM
SB568	Statewide Police Training and Standards Certification Board	T	No Hear	WAM

#### LEDGEND

L (Laura Thelen)  
T (Jill Tokuda)  
K (Keith Agaran)  
R (Karl Rhoads)  
NH - Not Heard  
D - Deferred  
Red (Dead)  
Green (Passed)

### 2015 Hawaii State Legislation Police Reform Bills (Phase III)

Bill #	Description	Who	Action	Where
SB664	High School Diploma required for PD hiring in Hawaii	K	No Hear	JUD
SB677	Empowers Mayors to fire County Police Chiefs	K	No Hear	JUD
SB771	Privacy Bill – Search and Seizure request	K	No Hear	JUD
SB1335	Police cannot have sex with minors during traffic stop	K	No Hear	JUD
HB365	Police Body Cam funding bill	T	No Hear	WAM
HB449	Police Must Post Policies online (Merged with SB388)	L	Merge	
HB450	Expertise added to each County Police Commission	R	No Hear	JDL
HB456	Domestic Violence victim protection bill	K	No Hear	JUD
HB1210	Statewide Police Training and Standards Certification Board	R	No Hear	JDL

#### LEDGEND

L (Laura Thelen)  
T (Jill Tokuda)  
K (Keith Agaran)  
R (Karl Rhoads)  
NH - Not Heard /  
Timed Out  
D - Deferred  
Red (Dead)  
Green (Passed)

## APPENDIX D

### Report Prepared for Hawaii State Representative Thielen surrounding HPC and HoPD Reform Recommendations (October 26, 2015)

#### OVERVIEW

The history and oversight mechanisms of the Honolulu Police Department make it distinct (and unique) from other forms of American policing models used on the ‘Mainland’. The primary distinction lay in the mechanisms (and structure) of checks-and-balances that have developed (or failed to develop) designed to oversee police functions. As the twentieth largest police agency in the United States<sup>1044</sup>, the Honolulu Police Department’s lack of a politically powerful external oversight mechanism has been a prime contributor to its “uniqueness.”<sup>1045</sup> Honolulu Police’s current oversight mechanisms (together with the natural geographic remoteness) are central in distinguishing this policing model from all others used across the United States.<sup>1046</sup> Two examples of Honolulu Police uniqueness lay in the oversight mechanisms designed on the County and State level. The Honolulu Police Commission (County oversight) and the lack of a state certification board (State oversight), have contributed to a vast number of under-punished or unpunished policy violations committed by Honolulu police personnel.<sup>1047</sup>

Although a state-level police oversight mechanism remains (critically) absent, county mechanisms that were created to oversee policing services have failed to correct perceived problems at the Honolulu Police Department. The following are policy recommendations aimed at addressing publicly perceived problems within the Honolulu city/county’s police oversight mechanism. While these recommendations are made to address problems at the county level in Honolulu, it should be strongly noted that the State of Hawaii remains as the only state that does not have a police oversight mechanism designed to license or certify police officers, and (or) provide training and accountability standards.<sup>1048</sup> Based on systemically identified problems at the Honolulu Police Department, local criminal justice scholars agree immediate reforms by both state and county level law-makers are needed to existing (or absent) police oversight systems. It is further recommended that the state and county level oversight agencies be designed and empowered to work symbiotically and concurrently. Their connective design should be to provide oversight tools onto state and county administrators whose task is in building communal trust and ensuring police compliance to policy.

The ‘County Charter’ is the document that empowers, authorizes and oversees the systemic composition of the Honolulu Police Commission. The following County Charter recommendations are made to address systemic issues within the Honolulu Police Commission, and to provide guidance on its functional intent.

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1044 (Honolulu Police Department, 2015)

1045 (Grube, 2015 (NB))

1046 (Grube, 2014 (ST)) (Grube, 2013 (WO)) (Hathaway, 2014) (Johnson, Chesney-Lind, & Chagnon, 2014 (W))

1047 (Grube, 2014 (MCP))

1048 (Grube, 2015 (NB))

- Alter the existing power and authority of the Police Commission currently granted under Section 6-1606.
- Alter the existing composition, term limits, reappointment methods, and requirements for individual police commissioners granted under Section 6-1605.
- Repeal the 1973 addendum agreement that prohibits the Police Commission's ability to interfere (in any way) with the administrative affairs of the Honolulu Police Department.

## POLICE COMMISSION BACKGROUND

"The Police Act" (enacted by Governor Judd on January 27<sup>th</sup>, 1931) established the separation between police and the mechanisms designed to oversee its operations. The Honolulu Police Commission was developed and created as an external (systemic) mechanism to provide oversight of police. Oversight was to be accomplished by the commission reviewing the police department's policy and budget, and by commissioners performing an annual review of the Honolulu Police Chief.<sup>1049</sup> Originally, the Commission was also the mechanism individual officers could appeal command staff disciplinary decisions. Because of the small size of the Honolulu police force (in 1932) the necessity of the police commission to oversee individual officer conduct was not thought to be critical. The thinking at that time was that providing the Police Commission oversight power to hire (or fire) the Chief of Police<sup>1050</sup> would be enough input should problems arise with individual officers. By the Commission having direct review power over the police chief's annual performance review, the Commission was designed to have an indirect ability to ensure disciplinary recommendation handed down to the Police Chief by commission investigations.<sup>1051</sup> This oversight model design was created without legislative powers to take action against rank-and-file police officials<sup>1052</sup>, and has failed to undergo an increase of authority despite the growth and expansion of the police department. The failure of the county oversight mechanism to address police misconduct is compounded by an absence of state-level oversight agencies, which were not created by the Hawaii State legislature at all.<sup>1053</sup>

As the Honolulu Police Department underwent numerous restructurings into a modern policing agency, the Honolulu Police commission became more intertwined with the police infrastructure. Several factors contributed to the political marriage between commissioners and police executives. One of these key elements was that police techniques and methods became more technical over time. Another was that national security demands influenced how the Honolulu Police Department understood its policing mission and deployed its services. As these factors (and geography) limited police expertise, police commissioners came to rely on Honolulu police executives for technical and policy advice. The lack of commissioners whose background includes either an academic or professional

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<sup>1049</sup> (Straus, 1978, p. 31)

<sup>1050</sup> (Gilmartin, 2014) (Straus, 1978, pp. 30-34)

<sup>1051</sup> (Straus, 1978, pp. 30-31)

<sup>1052</sup> (Gilmartin, 2014) (Straus, 1978, p. 31)

<sup>1053</sup> (Grube, 2014 (ST))

expertise in policing has been pointed to as a disabling handicap. Only by addressing existing systemic issues can the public's trust of policing be regained through the Honolulu Police Commission.

## POLICY RECOMMENDATIONS

1. The first policy recommendation revolves around altering the existing power and authority of the Police Commission currently granted by the existing county charter found in Section 6-1606. Currently, the Honolulu Police Commissions power and authority is limited to:

*(As of February 20, 2001)*

### **Section 6-1606. Powers, Duties and Functions --**

The police commission shall:

- (a) Adopt such rules as it may consider necessary for the conduct of its business and review rules and regulations for the administration of the department.
- (b) Review the annual budget prepared by the chief of police and may make recommendations thereon to the mayor.
- (c) Submit an annual report to the mayor and the city council.
- (d) Receive, consider and investigate charges brought by the public against the conduct of the department or any of its members and submit a written report of its findings to the chief of police. A summary of the charges filed and their disposition shall be included in the annual report of the commission.
- (e) Review and, if deemed necessary, make recommendations on the five-year plan and any update of goals and objectives for the police department which is submitted by the chief of police. The commission shall not have the power to approve, modify, or reject the plan or any update.
- (f) Compare at least annually the actual achievements of the police department against the goals and objectives in the five-year plan or latest update submitted by the chief.
- (g) Evaluate at least annually the performance of duties by the chief of police.

Except for purposes of inquiry or as otherwise provided in this charter, neither the commission nor its members shall interfere in any way with the administrative affairs of the department. (1998 General Election Charter Amendment Question No. 6(III))<sup>1054</sup>

Changes in Sections (d), and (g) are strongly recommended if the Honolulu Police Commission is to continue as the City/ County's police oversight mechanism.

**Subsection (d) of Section 6-1606 of the Honolulu Charter should be amended to include language:**

**- The Commission (as a mechanism) shall have the power to "veto" disciplinary decisions issued against Honolulu Police Department officers by the Honolulu Police Chief, should the Commissioners investigatory recommendations for discipline differ greatly from those of the Police Chief, and where the public's safety is affected by the Police Chief's failure to act.**

Conflicts recently arose between the Commission and Police Department when a citizen complaint by three-time Na Hoku Award nominee Jonny Helm was investigated alleging abuse of civil

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1054 (City and County of Honolulu, 2015)



rights and brutality by eight Honolulu Police Officers.<sup>1055</sup> Media reported that a Commission investigation revealed that the Police officers had used excessive force and abused their authority in the case, but that Chief Kealoha had overruled their findings and cleared all officers of any policy violations or criminal wrongdoing despite an independent Commission investigation finding evidence to the contrary.<sup>1056</sup> In the Helm incident the concerns of the commission rise to the level of public safety given the City's position to use tax payers' money to compensate Helm for the police department's mishandling of the case.

By providing a 'veto' power to the Police Commission on cases where vast discrepancies exist between the findings of Commissioners and the Police Chief, allow for an additional external review of incidents or actions that rise to political concern to county executives. Suggestions on a 'veto' reviewing authority include a State level mechanism specifically designed to resolve disciplinary disputes between the oversight agency and the police mechanism, or the Honolulu Mayor should no state level mechanism exist.

**Subsection (g) of Section 6-1606 of the Charter of Honolulu should be amended to include language:**

**- The Commission shall have the additional duty, power, and authority to recommend, to the Mayor, hiring and dismissal of the Honolulu Police Chief. The Commission shall provide the Mayor cause of action that demonstrates a failure to properly supervise, manage, or oversee county policing resources or personnel should a dismissal be sought. The Commission shall be tasked with direct participation and interviewing of any candidate that seeks the position of Honolulu Police Chief, and shall make recommendations (separate and distinct from any documents required by Human Resources) directly to the Mayor.**

Recent events in Honolulu have caused the Police Commissioners to seek clarification on the power and authority of the Commission as it relates to the appointment or removal of the Honolulu Police Chief.<sup>1057</sup> The 1932 'Police Act' clearly meant for this power to be one of the Commissions most powerful oversight tool. The fact that the language within Section 6-1606 has been obscured to the level of confusing individual commissioners proves the necessity to clarify authority in this area.

County websites reference the Police Commissions power to hire and fire the Honolulu Police Chief<sup>1058</sup> but the language contained within the County Charter obscure clear authority in this area. Commissioners should be empowered, and reminded, that the Commission's primary tool of oversight is the ability to remove the Police Department's top executive should the need arise.

2. The second policy recommendation revolves around the appointment, confirmation, term limits, qualifications, and composition of the Honolulu Police Commission granted

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1055 (Daysog, 2013)

1056 (Grube, 2015 (PCT))

1057 (Kerr, 2015 (PCU))

1058 (Honolulu Police Department, 2015)

under the current Honolulu Charter in Section 6-1605. Currently the County Charter states:

*(As of February 20, 2001)*

**Section 6-1605. Police Commission --**

There shall be a police commission which shall consist of seven members. The commission may appoint such staff and engage consultants as is necessary to assist it in the performance of its duties. The commission shall be governed by the provisions of Section 13-103 of this charter.<sup>1059</sup>

Honolulu police conduct began to be studied by several sociological, public administration and political science experts at the University of Hawaii beginning in 2010(APEC preparation). At that time studies began to track the number and type criminal (or policy) violations committed by agents of the Honolulu Police Department. During these studies, the ability of the Honolulu Police Commission's ability to resolve communal complaints also became critical to evaluate.

As a result of the Police Commissions inability to resolve (or take action) in numerous criminal and policy violations committed (or alleged to have been committed) by Honolulu Police officers, local Criminal Justice experts have reviewed the composition and working of the current commission and find a gap in policing expertise required to operate as an effective oversight mechanism.<sup>1060</sup> Local criminal justice scholars and experts agree that the current composition and qualifications of the Police Commission is problematic.

Experts agree that policing expertise needs to be added to the Police Commission to ensure that Commissioners that lack experience or expertise in policing are able to draw expertise from other peer Commissioners.

**Section 6-1605 of the Honolulu Charter should be revised to read:**

**There shall be a police commission that shall consist of ten members. These ten police commissioners shall be reconfirmed upon each mayoral election cycle. Police commissioners serve a four-year appointment, and shall serve no more than 3 consecutive terms as a police commissioner. At least three of the appointed police commissioners shall:**

- (a) possess a Master's degree (or higher) in a scholarly discipline related to Criminal Justice**
- (b) be a recognized industry expert in the field of criminal justice, policing, or security**
- (c) Experience as a law enforcement manager in an agency other than Honolulu Police**
- (d) possess a Juris Doctorate and has practiced (is practicing) law locally as either a State attorney or Criminal defense attorney**
- (e) possess a Juris Doctorate and has practiced (is practicing) constitutional law locally.**

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<sup>1059</sup> (City and County of Honolulu, 2015)

<sup>1060</sup> (Kerr, 2015 (PCE)) (Johnson, Chesney-Lind, & Chagnon, 2014)

**The commission shall appoint its President from one of the three commissioners that possess the expertise specified above.**

By adding policing or criminal justice experts to the current business and corporate experts that are appointed to the police commission will provide guidance in areas that may normally provide a pause in action. Limiting appointment term-limits also ensures that a constant rotation is maintained which is central in ensuring transparency and accountability. By ensuring that each police commissioner is reconfirmed or appointed during each Mayoral electoral cycle, a preventive measure will be included that prevents Commissioner appointments by previous county executives that may cause conflicts with current county executives.

3. The Third policy recommendation is to alter the 1973 charter revision that prohibits the commission or its members with interfering in any way with the administrative affairs of the Honolulu Police Department.

The largest obstacle in allowing the Police Commission to operate and act as an oversight tool of county administrators or the community, was the chartered revision in 1973 that prohibits the Commission from acting as an oversight agency. While the environment and conditions in 1973 Honolulu may have lent themselves to police autonomy, the 2015 environment has drastically changed what communal and political tools are necessary to provide oversight of the Honolulu Police Department.

The Charter must remove this prohibition, or all other recommendations are mute. This provision to the Honolulu charter was a clear disabling of the Honolulu police commission's authority and ability to serve as a communal instrument of trust-building.

## **SUMMARY**

Policy violations and criminal conduct within the Honolulu Police Department have risen to a level of outspoken public and media scrutiny. County public officials and law-makers seem unable, or unwilling, to politically address clear problems within the Honolulu Police Department and with its management. The oversight tools designed and created to rectify problems of mismanagement or corruption inside Honolulu Police Department have failed.

By altering the existing Honolulu charter in the three areas, tools and opportunities for reform are created. Additionally, critical expertise is added to the police commission that is necessary to advise the current commission moving forward.

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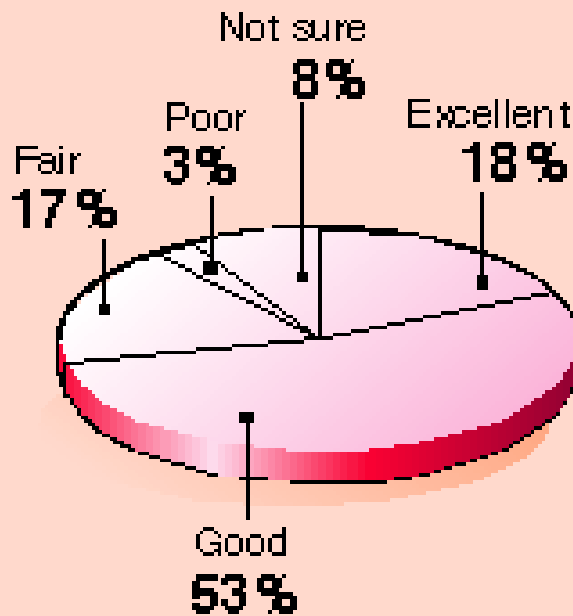
## APPENDIX E

January 8, 1996 – Honolulu Star Bulletin Poll from Story by Jean Christensen entitled: “Drugs, juvenile crime worry isle voters”

### Honolulu Star-Bulletin POLL

## Police performance

■ How would you rate the performance of the Honolulu Police Department?



Based on responses of 482 registered Oahu voters interviewed by telephone July 11-15 by Mason-Dixon Political/Media Research Inc. of Columbia, MD. Margin of error is plus or minus 4.7 percentage points. Responses may not add up to 100% because of rounding.

## APPENDIX F

Poll Conducted in 2015 by Lisa Kubota. Complete Story and statistical breakdown can be found at <http://www.hawaiinewsnow.com/story/28018762/hawaii-poll-public-trust-split-in-hpd-misconduct-investigations>



Ward Research conducted the Hawaii News Now/Honolulu Star-Advertiser poll last month. 52% of respondents said "yes" when asked, "Do you trust the Honolulu Police Department to investigate its own officers in cases of police shootings or police brutality?" 46% said "no."

## APPENDIX G

**Honolulu Police Commission's job/performance evaluation of Chief Kealoha which renewed a five-year contract as published in Civil Beat's article: "It's Time To Take Away The Police Commission's Rubber Stamp" on March 17, 2016.**

**PERFORMANCE EVALUATION REPORT**  
**HONOLULU POLICE DEPARTMENT**  
**CHIEF OF POLICE**  
**Period: January – December 2015**

Appointed by the Police Commission of the City and County of Honolulu, this position is the administrative head of the Honolulu Police Department. The Chief of Police exercises overall executive direction, management, coordination, and control of departmental functions/activities, and promulgates policies, rules, and regulations necessary for the organization and internal administration of the department, and reports to the Police Commission on a regular basis.

Definitions of components used in completing the Performance Evaluation Report:	
<b>FAILS TO MEET EXPECTATION (1):</b>	Results achieved do not meet required expectation and objectives
<b>IMPROVEMENT REQUIRED (2):</b>	Results achieved do not meet required improvement and objectives
<b>MEETS EXPECTATION (3):</b>	Results achieved meet expectation and objectives
<b>EXCEEDS EXPECTATION (4):</b>	Results achieved exceed requirements and objectives consistently
<b>EXEMPLARY (5):</b>	Results achieved surpass required expectation and objectives without exception



Any ambiguity or uncertainty in the Performance Evaluation Report should be resolved by referring to the job description of the Chief of Police which is incorporated herein by reference.

KEY JOB RESPONSIBILITY AREA (KJRA)	% WEIGHT OF KJRA	KEY GOALS OR ACTIVITIES	RATING	COMMENTS
FINANCIAL	20%	<ul style="list-style-type: none"> <li>Provides timely detailed information of a proposed budget to the Commission               <ul style="list-style-type: none"> <li>Expenditures at or below budget</li> <li>Maximizes efficiency of usage of funds available</li> </ul> </li> <li>Secures budgetary appropriations</li> <li>Ensures that fiscal practices and procedures are excised in a proper manner in approving expenditures</li> <li>Promote a more environmentally conscious work environment – HPD generated use and energy use</li> </ul>	4.3	
LEADERSHIP  To provide the leadership qualities, skills, duties and responsibilities to lead the Police Department. To strengthen and maintain a department culture based on integrity, trust and respect.	20%	<u>Core Competencies</u> <ul style="list-style-type: none"> <li>Peer Relationships (Gains trust and confidence of those he interacts with)               <ul style="list-style-type: none"> <li>Maintains and solidifies a positive relationship with other law enforcement agencies</li> <li>Maintains a positive relationship with the media</li> </ul> </li> <li>Ethics Value and Integrity               <ul style="list-style-type: none"> <li>Maintains a high degree of professional and personal integrity                   <ul style="list-style-type: none"> <li>Role model of HPD Standards of Conduct</li> <li>Leads by example</li> </ul> </li> </ul> </li> <li>Communication Skills (communicates effectively with direct reports and non-direct reports)</li> </ul> <u>Innovative and Creative</u> <ul style="list-style-type: none"> <li>Proactive in his actions in achieving the Department's goals and objectives               <ul style="list-style-type: none"> <li>Initiates programs that will enhance public safety on the roads and with respect to people and property crimes</li> </ul> </li> </ul>	4.0	



KEY JOB RESPONSIBILITY AREA (KJRA)	% WEIGHT OF KJRA	KEY GOALS OR ACTIVITIES	RATING	COMMENTS
<b>LEADERSHIP (Continued)</b>  To provide the leadership qualities, skills, duties and responsibilities to lead the Police Department. To strengthen and maintain a department culture based on integrity, trust and respect.		<u>Promotes Positive Attitude and Morale</u> <ul style="list-style-type: none"> <li>Builds and maintains a high degree of morale               <ul style="list-style-type: none"> <li>Creates a work environment that promotes the highest levels of performance from department employees</li> <li>Decisions promote organizational functions and objectives</li> </ul> </li> </ul> <u>Organizational and Development</u> Takes courses to complement responsibilities of the Chief of Police		
<b>MANAGERIAL</b>  To maintain essential management procedures for effectiveness, cost-containment and relevance, with continuous improvement and employee-focus at all levels.	20%	<u>Building Effective Teams</u> <ul style="list-style-type: none"> <li>Organizational Structure               <ul style="list-style-type: none"> <li>Clear delineated operational functions and levels of authority while improving management efficiency</li> <li>Makes organizational changes to ensure that the Department functions properly and efficiently</li> </ul> </li> <li>Delegation               <ul style="list-style-type: none"> <li>Delegates responsibilities</li> <li>Uses staff, equipment and facilities to its fullest</li> </ul> </li> <li>Personnel &amp; Staffing               <ul style="list-style-type: none"> <li>Adheres to the Civil Service rules and regulations in selection and appointment of personnel</li> <li>Imposes disciplinary actions within the written standards of conduct and within the requirements of the applicable collective bargaining agreements and laws</li> </ul> </li> </ul>	4.3	

KEY JOB RESPONSIBILITY AREA (KJRA)	% WEIGHT OF KJRA	KEY GOALS OR ACTIVITIES	RATING	COMMENTS
		<u>Leading People to Excellence (Training &amp; Development)</u> <ul style="list-style-type: none"> <li>Promotes, implements, and maintains training, educational and development programs               <ul style="list-style-type: none"> <li>Maintains an ongoing pipeline of qualified officers/personnel at all levels</li> </ul> </li> <li>Implement new technology that will benefit employee safety, workload, time management and accountability</li> </ul>		
<b>POLICE COMMISSION</b>  To foster good and timely communication between the Chief and Commission.	20%	<ul style="list-style-type: none"> <li>Provides timely updates on the 5-year-plan and HPD 2015 plan               <ul style="list-style-type: none"> <li>Meets goals and objectives</li> </ul> </li> <li>Regularly attends Commission meetings</li> <li>Responds promptly to requests from the Commission               <ul style="list-style-type: none"> <li>Provides timely updates on any issues or concerns</li> <li>Provides all information and/or documentation as requested or necessary to conduct the annual Chief of Police evaluation</li> </ul> </li> <li>Provides the Commission with a copy of the Chief of Police's annual disciplinary report</li> </ul>	4.5	
<b>COMMUNITY RELATIONS</b>  To foster and maintain good relations between the Department and the Community	20%	<ul style="list-style-type: none"> <li>Fosters a positive relationship with the public               <ul style="list-style-type: none"> <li>Promotes police-community partnerships to resolve problems collaboratively</li> </ul> </li> <li>Promotes and educates the public to the community's role and responsibilities in the prevention, detection and resolution of crime and disorder to enhance the welfare and safety of the public</li> <li>Provide the public with efficient access to Police services               <ul style="list-style-type: none"> <li>Dispatch efficiency</li> <li>Substations</li> <li>Community events</li> </ul> </li> </ul>	3.8	
TOTAL AVERAGE			4.2	

PERSONAL AND PROFESSIONAL TRAITS (Indicate S if <b>Satisfactory</b> or I if <b>Improvement is Desired</b> )	
S	Shows willingness to improve job knowledge.
S	Accepts feedback in cooperative and honest fashion.
S	Gains trust and confidence of others.
S	Displays positive attitude and self-confidence and is perceived that way by others.
S	Shows good work habits regarding attendance, timeliness, appearance, and business-like demeanor.
S	Shows professional ethics, sincerity, loyalty, honesty, integrity, humor, respect, and concern for others.
COMMENTS:	
CHIEF OF POLICE COMMENTS:	
CHIEF OF POLICE SIGNATURE:	
 Signature	<u>030916</u> Date
POLICE COMMISSION CHAIR SIGNATURE:	
 Signature	<u>3/9/16</u> Date

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